CM 334178 1942 SABOTEURS CASE TRIED BY APPOINTED MILITARY COMMISSION VOL II OF XVIII TRANSCRIPT

II

STENOGRAPHIC TRANSCRIPT OF PROCEEDINGS

Before the

MILITARY COMMISSION TO TRY PERSONS CHARGED WITH

OFFENSES AGAINST THE LAW OF WAR AND THE

ARTICIES OF WAR.

Washington, D. C.

Thursday, July 9, 1942.

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Washington, D. C.

Thursday, July 9, 1942.

The Military Commission appointed by the President by order dated July 2, 1942, met, in room 5235 Department of Justice, at 10 o'clock a. m., to try for offenses against the Law of War and Articles of War, the following persons: Ernest Peter Burger, George John Dasch, Herbert Haupt, Heinrich Harm Heinck, Edward John Kerling, Hermann Neubauer, Richard Quirin and Werner Thiel.

PRESENT: Members of the Military Commission, as follows:

Major General Frank R. McCoy, President,
Major General Walter S. Grant,
Major General Blanton Winship,
Major General Lorenzo D. Gasser,
Brigadier General Guy V. Henry,
Brigadier General John T. Lewis,
Brigadier General John T. Kennedy.

As Trial Judge Advocates:

Honorable Francis Biddle, Attorney General of the United States.
Major General Myron Cramer, The Judge Advocate General, U. S. Army.

Colonel F. Granville Munson,
Colonel John M. Weir,
Colonel Erwin M. Treusch,
Major William T. Thurman.
Officers of the Judge Advocate General's Department.

Oscar Cox, Assistant Solicitor General of the United States,
James H. Rowe, Jr.,
Assistant to the Attorney General.

C O N T E N T S .

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--ooOoo--

As Provost Marshal:
Brigadier General Albert L. Cox.

As Counsel for the Accused except George John Dasch:

Colonel Cassius M. Dowell,
Colonel Kenneth Royall,
Major Lauson H. Stone,
Captain William G. Hummell.

As Counsel for the Accused George John Dasch:

Colonel Carl L. Ristine.

- - - - -

P R O C E E D I N G S

The President. The Commission is open.

Colonel Munson. May the record show that all of the personnel of the Commission, the prosecution, and defendants who were present at the close of the previous session in this case are now present; all of the accused are present, and the reporter is also present. I note the absence of Captain Hummell of defense counsel.

Colonel Dowell. He is absent temporarily on a mission.

The President. Lieutenant Page, have you checked over and are sure that all present are entitled to be present under the rulings of yesterday?

Lieutenant Page. I have, sir, and all are entitled to be present.

Colonel Munson. May it please the Commission, I would like to read into the record the order appointing Colonel Carl L. Ristine as Counsel for the Accused George John Dasch. This order is entitled "AG 201- Ristine, Carl L. (7-7-42)OF

JFM/jp-1505.

July 7, 1942.

"Subject: Orders

"HRU: The Inspector General.

"TO: Colonel Carl L. Ristine (O-168245) I. G. D.

"The Secretary of War directs that you report at once to the President of the Military Commission appointed by the President, under date of July 2, 1942, for duty as defense counsel for George John Dasch, one of the accused to be tried by said Commission.

"J. A. Ulio

Major General,
The Adjutant General.

"1st Ind.

"War Department, IGO, July 7, 1942. - To: Colonel Carl L. Ristine, IGD, (O-168245).

"For compliance.

"For The Inspector General:

"GEORGE FOX MOTT,
Major, I. G. D.,
Acting Executive."

The President. I would like to have the reporter make a note that a copy of this order was received by the President of the Commission prior to the opening session, and that Colonel Ristine was accepted and was present from the beginning of the first session.

Colonel Royall. Mr. President, the order was approved for two copies of the testimony to be furnished defense counsel. That was agreed upon before Colonel Ristine came into the case. We have this morning informally consulted with the Attorney General and representatives of the Judge Advocate General as to having an extra copy made from this point on to be available to Colonel Ristine. I understand there is

no objection and thatthe Judge Advocate General will handle the military procedure necessary if the court approves the action.

Colonel Munson. May it please the Commission, of course that is a matter for the direction of the Secretary of War, and we will take up with the Judge Advocate General the request of defense counsel and ask that we be authorized to furnish an additional copy to Colonel Ristine.

Does the Commission desire to have the record placed before it daily? I have in my hand the transcript of yesterday's proceedings, if the Commission so desires.

The President. We would like to have the Commission furnished with such copy daily, so that we can refer to it if necessary.

The Attorney General. May it please the Commission, I would like to have these documments marked P-13A, P-13B, P-13C and P-13D.

The President. Mr. Judge Advocate General, the Commission feels that there is no necessity of going to the Secretary of War in furnishing a copy of the record to Colonel Ristine. The Commission authorizes you to furnish a copy to Colonel Ristine.

The Judge Advocate General. The only reason for that, Mr. President, was to get an order to pay the reporters' bill, from a financial viewpoint.

The Attorney General. The Commission will remember that there was objection made to my offering an exhibit which yesterday had been identified as P-13, with certain letters designating each page. I have had that exhibit now as its substance has been changed marked P-13A, P-13B, P-13C and P-13D,

and I am told now that counsel for the defendants agree, so far as the technical proof of the exhibit is concerned, to have it introduced, preserving their objection to the materiality of the exhibit.

I will now offer Exhibit P-13 and read it to the court.

The President. Does that include a copy of the map?

The Attorney General. That includes a copy of the map.

Colonel Dowell. That is correct.

The Attorney General (reading): "CONFIDENTIAL

P-13-A 602

"UNITED STATES COAST GUARD

"New York, N. Y.
11 April, 1942.

"Office of the District
Coast Guard Officer
Third Naval District
Room 411, Custom House.

"From: District Coast Guard Officer, Third Naval District,

"To: Officers in Charge, All Stations Third Naval District.

"1. Immediately upon receipt hereof you will arrange to have two men on patrol during each watch in order that the entire shore line may be covered on each side of your station.

"2. The above instructions are, of course, not applicable to units that are unable to patrol in but one direction but every member of your crew when on patrol should be instructed to be on the alert to observe the condition of the beach in order to determine whether or not landings have been made thereon subsequent to the time the patrol was previously covered and any such observation should be reported immediately.

"3. If for any reason sufficient personnel are not available to maintain any part of the patrol in the manner outlined above, a notation to that effect should be made in the station log.

"S. R. SANDS,
By direction.

"Certified to be a true copy of official record:

"L. T. Chalker,
Rear Admiral, U. S. Coast Guard,
Assistant Commandant."

This is a message sent by Joseph A. Bresnan, Lieutenant Commander, United States Coast Guard, Communications Watch Officer (reading):

P-13-B

"Reference beach patrol instructions dated 11 April 1942 X These instructions were placed in effect on receipt by stations and continued in effect to and through 13 June 1942 and until they were amended by instructions dated 13 June 1942 but not placed in effect until subsequent dates when received at lifeboat stations X

Signed Capt A J Sexton Chief of Staff."

(Reading further:)

P-13-C

"UNITED STATES COAST GUARD

"602 - RESTRICTED

"Office of District
Coast Guard Officer,
Third Naval District
Room 411, Custom House

"New York, N. Y.
13 June, 1942.

"From: District Coast Guard Officer, Third Naval District.

"To: Commanding Officers All Lifeboat Stations, Third Naval District.

"Subject: Patrols.

"1. The present system of maintaining patrols as per schedule approved by this office is hereby rescinded.

"2. At all future times, until further advised, the patrol at all stations will be under the direct supervision of the officer in charge of each unit who is hereby directed to prepare a daily patrol schedule to be maintained continuously in thick weather, during the hours of darkness and at such other times as may be considered advisable.

"3. The patrol will be staggered and will depart from the station in each direction at such times and under such conditions as may be prescribed by the officer in charge, having in mind the manner in which he believes the most effective results will be obtained.

"4. You are further directed to instruct all personnel performing patrol duty to challenge every person whom he meets while on patrol and require him to produce satisfactory means of identification, as the mere wearing of uniform of the Army, Navy, Coast Guard or Civilian Defense Force is not considered adequate means of identification.

"5. If, under certain conditions, it may seem foolhardy for the patrolman to challenge a person, or group of persons, he may encounter, he should be instructed to immediately report all facts to the nearest Coast Guard unit by the most practicable method.

"R. W. DEMPWOLF

"Certified to be a true copy of official record:

"L. T. Chalker,
Rear Admiral, U. S. Coast Guard,
Assistant Commandant."

Colonel Dowell. May it please the Commission, I would like to have the certifications of the teletype message also read to the Commission.

The Attorney General (reading):

"Certified to be the original message received from District Coast Guard Officer, Third Naval District via Teletypewriter WA-161 at Coast Guard Headquarters, Washington, D. C.

"JOSEPH A. BRESNAN,
LIEUT. COMDR. USCG
COMMUNICATIONS WATCH OFFICER.

"Certified further that the above message was sent from New York at 5:16 P.M., and received in Washington at 5:18 P.M., on July 8, 1942.

"FRANK E. POLLIO,
LIEUT. COMDR., U.S.C.G."

Colonel Royall. That certification was the reason for our withdrawing our technical objection. That was not present yesterday. I wished to make certain that the record shows that we object to this on the ground of irrelevancy.

The Attorney General. We would like to have this exhibit, including the map, made a part of the record.

Does the Commission wish to look at this map (handing map to the Commission)?

The President. The remark of defense counsel as to the relevance of this record causes me, as representing the Commission, to state that it will be received in evidence.

(The documents referred to, previously marked for identification P-13A, P-13B, P-13C and P-13D, were received in evidence.)

The Attorney General. I will recall Mr. Barnes.

WARREN BARNES, CHIEF BOATSWAIN'S MATE, U. S. COAST GUARD, a witness for the prosecution, previously called and sworn, resumed the witness stand.

Colonel Munson. The witness is reminded that he is still under oath.

DIRECT EXAMINATION--Resumed

Questions by the Attorney General

Q Mr. Barnes, you were in charge of the Coast Guard station, you testified yesterday, I believe?

A Yes, sir.

Q What area did that cover?

A That covered from Amagansett station about 2 miles farther east to Napeaque station, and 3½ miles west toward the Georgica station.

Q So that, roughly, the extent was 6 miles along the coast?

A Yes, sir.

Q Is there a Coast Guard radio station situated on the coast there?

A Yes, sir. There is one right in rear of the Coast Guard, and the Navy station is on the same reservation, sir.

Q Where is that Naval reservation?

A To the north are the barracks and the administrative quarters, and over at the beach is the compass station.

Q What orders did you give your men with respect to patrolling that area?

Colonel Royall. We object on the ground of irrelevance and immateriality. That was asked yesterday.

The Attorney General. That question was not asked yesterday. I think the question was with respect to other orders. It is relevant to show what his men did to prevent invasion by the enemy along that coast. I think it is highly relevant.

The President. Have you any further remarks?

Colonel Royall. No, sir. I think our remarks yesterday, addressed to a similar question, are all that we care to say about it. The Commission ruled against us on the other question, but I did not want to waive our rights.

The President. Subject to objection by any member of the Commission, the objection is not sustained.

The Attorney General (addressing the reporter). Will you read the question?

(The reporter read as follows:)

"Q What orders did you give your men with respect to patrolling that area?"

The Witness. I told them to watch out for anything they saw of a suspicious nature or character, and not to run into any traps, and be sure that if they saw anything, such as a boat signaling the people on the beach, that would cause or arouse suspicion, to come back and notify us immediately and we would investigate it.

The Attorney General. I will ask the reporter to mark this for identification as Exhibit P-35, and will ask him to mark it on the green card.

(An article of clothing was marked P-35 for identification.)

Questions by the Attorney General

Q I show you this article. Is that part of the

material that came out of the duffel bag?

A Yes, sir.

Q I show you a coat marked for identification P-36, and ask you if you recognize that as part of the material?

A Yes, sir.

(Coat was marked P-36 for identification.)

Q I show you a coat marked P-37 and ask you if that is part of the material?

A Yes, sir.

(A coat was marked P-37 for identification.)

Q I show you a coat marked P-38 and ask you if that is part of the material?

A Yes, sir.

(Coat marked P-38 for identification.)

Q I show you a pair of trousers marked P-39 and ask you if that is a part of the material?

A Yes, sir.

(Pair of trousers were marked P-39 for identification.)

Q I show you what appears to be a brown vest marked P-40 and ask you if that is part of the material?

A Yes, sir.

(Brown vest was marked P-40 for identification.)

Q I show you a pair of wool socks, marked for identification P-41, and ask you if that is part of the material?

A Yes, sir.

(Pair of wool socks was marked P-41 for identification.)

Q I show you a pair of swimming shorts marked P-41 for identification, and ask you if that is part of the material.

A Yes, sir.

(Swimming shorts were marked P-42 for identification.)

Q I show you a pair of sneakers, marked P-43, and ask you if that is a part of the material?

A Yes, sir.

(A pair of sneakers marked P-43 for identification.)

Q What did you do with the material that you identified? I think you testified yesterday that you turned over the material which you identified to Mr. Nirschel, an Intelligence Officer of the Coast Guard.

A Yes, sir.

Q And put it in his possession?

A Yes, sir. I turned the duffle-bag over to him.

The Attorney General. I would like to offer all the material exhibits. It seems to be unnecessary to name them specifically; and, with the permission of the Commission, I should like to have the photographs attached to the exhibits spread on the original record and the physical exhibits themselves turned back to the custody of the FBI. I understand there is no objection to that method of handling.

Colonel Royall. There is no objection to that method of handling, nor is there any objection to the introduction of the exhibits. However, the defense would like to request that those tabs which are affixed thereto and which were not introduced in evidence be not made a part of the record. I assume it is not your purpose to do that anyhow?

The Attorney General. That is right.

(Exhibits Nos. P-35 to P-43, inclusive, were received in evidence.)

Questions by the Attorney General

Q I think you said you turned them over to Lieutenant Nirschel. There were two officers. What was the name of the other officer?

A Franken.

The Attorney General. You may cross examine.

Cinci fls
10:25

Cinci
fls
Wilfong
10:40 am

Colonel Royall. Defendants represented by Colonel Dowell and myself do not desire to ask any questions.

Colonel Ristine. No questions.

The President. The witness is excused.

The Attorney General. Do counsel for the defense wish this witness to stay in court?

Colonel Royall. We have no desire for him to stay in court.

The Attorney General. May we let this witness go?

The President. Yes.

Lieutenant Page. S. K. Franken. This witness has not been sworn as to secrecy.

Colonel Munson. Lieutenant, there are two oaths you take. The first oath you take is an oath of secrecy, and that is followed by the oath of a witness.

Do you solemnly swear that you will not divulge the proceedings taken in this trial to anyone outside this courtroom until released from your obligation by proper authority or required so to do by such proper authority?

Lieutenant Franken. I do.

Colonel Munson. You swear that the evidence you shall now give in the case on hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

Lieutenant Franken. I do.

LIEUTENANT SYDNEY K. FRANKEN

was called as a witness for the prosecution and testified as follows:

DIRECT EXAMINATION

Question by Colonel Munson:

2h

Q Will you please state your name, rank, organization, and station?

A Lieutenant, Junior Grade, Sydney K. Franken, United States Coast Guard, Intelligence Division, New York City.

Questions by the Attorney General:

Q Mr. Franken, as a result of a message to you, did you go to the Coast Guard Station at Amagansett, on June 13?

A I did, sir.

Q Where is the station situated?

A The station is situated at Amagansett in Long Island.

Q Who was there when you arrived?

A There wasn't anybody at the station when we arrived except a few of the seamen.

Q Did Mr. Barnes, who was in charge, come in afterwards?

A Mr. Barnes came in later.

Q With certain material?

A Mr. Barnes came in after with certain material.

Q Was that material handed over to you?

A Mr. Barnes brought the material into the garage of the station--that is, at the rear of the station, on the beach side, and we were in the office of the station questioning Seaman Cullen, and he told us to come into the garage, and we did, and we saw the material, and it was turned over to us there.

Q Will you generally describe the material, without going into detail?

A There were four cases, wooden cases, bound with wire

3b

tape. One had one X-mark on it and three had two X-marks on them, I believe. There was a sea bag, dark-gray material, at that time--of course, it was wet and there was sand on it--and in the sea bag were various articles of clothing--some shoes, sneakers. There were some bathing trunks.

Q Supposing, to save time, you come over here to identify the material. I show you what has already been identified as Exhibits 35 to 43 for the prosecution. I am showing you this box. Is that the X on the outside that you say it was marked with?

A Yes.

Q This is the box that was opened? Was it opened or did you open it?

A No; all the boxes were sealed when they were brought in, just as they were picked up.

Q That was the box that was opened in the Coast Guard Station?

A That was the box that was open when I was in there.

Q Someone had opened it. Will you look at this material which is on the table, which has been identified as Exhibits 35 to 43, and tell the Commission whether or not this was the material that was turned over to you in the Coast Guard Station, taken out of the duffel bag, and the material that was brought in to you? Will you look at it and see if that is the material?

A This is the box, and we opened the box and inside was the hermetically sealed tin container.

Q Did you open the tin container?

A The tin container was opened in the presence of

4bb

Lieutenant Nirschel and myself by the Chief in the Napeaque Station, and I personally took some material out of the container.

Q What did you do with the material that you took out of the container?

A We took out only a small amount of material at that time.

Q What did you take out?

A Mostly cardboard boxes, and in the cardboard boxes we found the small time bomb mechanisms, pens and pencils of the explosive type.

Q What did you do with those mechanisms?

A We just opened the boxes, looked at them, and then we placed them into the container.

Q Into the container?

A The other three boxes we did not open.

Q Do you identify these clothes--some on the floor here?

A This is the sea bag.

Q This is the sea or duffel bag, referred to in both ways?

A Yes. This is a hat that was in the sea bag.

Q Referring to P-22. It is not necessary to go through each item.

A There were four jackets, two of a light-weight material and two of the heavier material, and three trousers which were identified by the buttons thereon, by the general description as the German naval fatigue uniform. These are the uniforms.

Q These are the trousers and the jackets?

A Yes, sir.

Q You identify the rest of the material? Just look through it and state to the Commission that you identify that.

A This is one sneaker--a pair of sneakers. There were a heavy pair of shoes that are on the floor. There were cigarettes we took out of the pockets of the uniforms. There was a slip of paper we took that fell off the sea bag, containing the name of an organization--the German Navy.

Colonel Royall. We object. This witness is volunteering conclusions and information that he is not asked. Among other things, he said this was a German naval uniform. No one asked him that question. We do not happen to object to that remark particularly, but I would like to have him cautioned not to state the contents of papers or make statements to which no inquiry is directed.

The President. For the moment the witness will confine himself to the identification in answer to the question of the Attorney General.

The Witness. Yes, sir.

Questions by the Attorney General:

Q If you will simply identify that on the table and under the table, it will save time. You might pick these up and put them on the table.

A I identify the cravenette or the raincoat being in the sea bag.

Q These are the cigarettes that you referred to, marked "P-30 for identification"?

A Yes, sir; they are. I identify this piece of

clothing as being in the sea bag, and the bathing trunks.

Colonel Royall. Mr. President, we move to strike from the record the testimony of the witness as to the written contents of some paper, both on the ground that he was not asked about it and on the ground that the paper is the best evidence, unless its absence is regularly explained.

The Attorney General. I have no objection, because we will introduce it at the proper time.

The President. The objection of the defense to irrelevant information and identification which have not been asked by the Attorney General will be sustained, and that will be struck from the record.

Questions by the Attorney General:

Q Now, Mr. Franken, what did you do with these exhibits that you have already identified, including the other three boxes which were not opened?

A We placed all the material in the rear of our station wagon and immediately took it to New York City, to the Office of the Captain of the Port, Captain Baylis.

Q Who accompanied you to New York?

A Lieutenant Nirschel accompanied me to New York and a driver, Seaman Redfield.

Q What was done with the material?

A We brought it into the Captain's office, and we opened the remaining three cases, and we completely emptied the one case that had been opened at Amagansett. We examined all the material.

Q Did you open any of the other boxes?

A We opened each of the other three boxes at that time;

yes, sir.

Q Did you remove the containers?

A We removed several of the top layers.

Q You mean you opened the containers and removed some of the contents?

A We opened the wooden containers. Then we opened the tin containers on the top side, and we removed several of the top layers of the blocks of material that were in the other three containers.

Q What did you do with what you removed?

A That we just spread out on the tables and on the desks in the Captain's office.

Q What was then done with this material?

A Then Mr. Donegan of the FBI and Mr. Lanman--

Q L-a-n-m-a-n?

A Yes, sir, and Mr. Emerich of the FBI.

3 Q They came to your office?

A They came to the Captain's office.

Q They came to the Captain's office. You were present?

A We were present. We did on occasion go out of the office. We were present.

Q What was done with the material?

A They gathered up all the material and they took it away.

Q I show you P-40, the brown weskit, and ask you where that was found, and whether it was part of the other clothing that you identified (handing an article to the witness).

A This was part of the other clothing identified. When the material was opened in the Captain's office it made quite

8b

a mess. The wooden boxes and sawdust were spread all over the office, and later we picked this vest up in the room, and I remembered seeing it out at Amagansett, and this is part of the material that was in the sea bag.

Q Was it turned over to the agents of the FBI when this material was turned over?

A No, sir.

Q What did you do with it?

A It was turned over to the agents of the FBI on Wednesday morning--I believe it was the 17th of June.

Q Now, I am showing you an exhibit, which I will ask to have marked for identification "P-44."

(Article referred to was marked "P-44.")

Questions by the Attorney General:

Q I ask youif you can identify it.

A Yes, sir. I can identify this. This was found in one of the pockets of the uniforms.

Q In one of the pockets of the uniforms?

A In the sea bag at Amagansett.

Q At Amagansett?

A Yes, sir.

The Attorney General. I offer this in evidence and ask that it be spread in the record.

(Prosecution Exhibit 44 was received in evidence.)

The President. May I ask, Mr. Attorney General, if it is the intention to have this written material read and put in as evidence?

The Attorney General. Mr. President, the written material

9b

being in German, I would prefer to call a translator and have it read and translated at the same time, if that meets with your approval.

I ask the reporter to mark this "Prosecution 45."

(Slip of paper was marked P-45.)

Questions by the Attorney General:

Q I ask the witness whether he can identify Exhibit 45, this small slip of paper which I show you.

A Yes, sir. That small slip of paper was attached to the sea bag that we got at Amagansett from Chief Barnes, and we picked it up and preserved it.

The Attorney General. I offer this in evidence and at the same time request the indulgence of the Commission. I can read it to the Commission when the translator arrives.

(Prosecution Exhibit 45 was received in evidence.)

The Attorney General. Cross-examine.

Colonel Royall. No questions.

Colonel Ristine. No questions.

The President. Are there any questions by the Commission? There seem to be none. The witness is excused.

The Attorney General. Have I the Commission's permission to let the witness go?

The President. Yes.

Lieutenant Page. C. F. Lanman. This witness has not been sworn as to secrecy.

Colonel Munson. You will take two oaths, one oath as to the secrecy of this hearing, and then the regular oath as to your testimony. The first oath is as to secrecy.

10b

Do you solemnly swear that you will not divulge the proceedings taken in this trial to anyone outside the court-room until released from your obligation by proper authority, or required so to do by such proper authority?

Mr. Lanman. I do.

Colonel Munson. Do you swear that the evidence you shall give now at the hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Lanman. I do.

CHARLES F. LANMAN

was called as a witness for the prosecution and testified as follows:

Question by Colonel Munson:

Q Will you please state your name, residence or office address, and occupation?

A My full name is Charles F. Lanman. I am a special agent of the Federal Bureau of Investigation, assigned to the New York Office.

DIRECT EXAMINATION

Questions by the Attorney General:

Q Mr. Lanman, on June 13 did you go to the Barge Office at Manhattan, New York City?

A Yes, sir, I did.

Q At what time did you go?

A At approximately 11:30 or 12 o'clock.

Q Who was there?

A There was Lieutenant Nirschel and Lieutenant Franken of the Coast Guard, and numerous other Coast Guard officers.

Q Did you see the material that they had, which has been referred to?

11b

A Yes, sir, I did. They had it in the office on the floor when we arrived there.

Q Will you look at the clothes on this table, which have been identified as Exhibits 35 to 43, and tell us whether or not that was the material?

A Yes, sir. This is the material here.

Q Is that the wooden box and the tin container, the

4 box being marked X?

A The box marked X, yes, sir.

Q What else was there in addition to the material on this table?

A Numerous explosives and timing devices, some wire fuses--

Q Were there other wooden boxes?

A And other wooden boxes also.

Q How many?

A There were four wooden boxes and four tin tanks.

Q Had they all been opened?

A They had all been opened.

Q Were they similar to the wooden box and tin tank on that table?

A Yes, sir; identical.

Q Did you also see Exhibit 45, which I show you here? Was that among them and turned over to you?

A At the time--that was in the duffel bag and I did not see that at the time, until after the return to the office.

Q It was among the material you took back to the office?

A It was among the material we took back to the office, yes, sir.

12b

Q Was that also true of Exhibit 44, which has been identified as a card taken from one of the coats?

A Yes, sir.

Q That was part of the material turned over?

A Yes, sir.

Q I show you a brown vest which has already been marked "P-40." Was that part of the material that was turned over to you later?

A That was brought to us later.

Q What did you do with that later?

A Together with the special agent in charge, T. J. Donegan, and Special Agent Emerich, I assisted in removing this material to the New York office, where it was turned over to the special agent in charge, Spencer Drayton.

Q That includes, of course, the three other boxes?

A Yes, sir; the four tin tanks, the four wooden boxes, and the sea bag.

The Attorney General. Cross-examine.

Colonel Royall. No questions at this time. We may want this witness returned.

The President. Are there any questions by the Commission? There seem to be none. You are excused for the moment.

Are you conscious of the fact that any violation of the oath as to secrecy is subject to penal action by contempt of this Commission?

The Witness. I am, sir.

Lieutenant Page. Mr. S. J. Drayton. This witness has not been sworn as to secrecy.

Colonel Munson. You will take two oaths, one as to

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secrecy and the other is the oath for a witness.

The President. Colonel Munson, will you be careful to explain the contempt clause after the oath?

Colonel Munson. Yes, sir.

The President. The power of the Commission to punish for any violation.

Colonel Munson. Yes, sir.

Do you solemnly swear that you will not divulge the proceedings taken in this trial to anyone outside the courtroom until released from your obligation by proper authority or required so to do by proper authority?

Mr. Drayton. I do.

Colonel Munson. You understand, sir, that the taking of that oath places you under an obligation to be followed by penal consequences in case it is violated?

Mr. Drayton. I do.

Colonel Munson. You swear that the evidence that you shall give now in the hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Drayton. I do.

SPENCER J. DRAYTON

was called as a witness for the prosecution and testified as follows:

Question by Colonel Munson:

Q Will you state, please, your name, residence or office address, and occupation?

A Spencer J. Drayton. I reside at 30 Fifth Avenue, New York City. I am employed as Assistant Special Agent in charge of the Federal Bureau of Investigation at New York City.

DIRECT EXAMINATION

Questions By the Attorney General:

Q On June 13, 1942, did Mr. Lanman and Mr. Donegan, F.B.I. Agents, bring certain material into your office?

A They did, sir.

Q Did you identify each article of clothing and the material that was brought by tagging it?

A Yes, sir.

Q What did you do to the tags to identify them?

A I initialed them, sir.

Q Will you look at this material and see whether this is the material that you tagged and initialed?

A I received this canvas bag--

Q I think, to save time, if you will run through that material and identify it quickly, you can then state to the Commission that you have identified all of it.

4 The Attorney General. Mark these, to save time.

(Various articles were marked P-46 through 50, respectively.)

A I received all of it, sir, with the exception of this hat.

Questions by the Attorney General:

Q With the exception of the hat. Can you identify the hat? Did you see it?

A No, sir.

Q Now, if you will take the stand again.

Attig fls 10:50

I show you exhibits marked for identification 46, 47, 48, 49, and 50, and ask you whether you will identify them.

A Yes, sir. I received all these at the same time.

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Attig
fls
Cin.
10:50

The Attorney General. I offer these in evidence. Perhaps the Commission would like to see one of these exhibits, Exhibit 50, some French matches; the others have no particular significance. They were part of the material, he said, which was turned over by the intelligence officers of the Coast Guard at his office.

Colonel Royall. Are those articles going to be identified by any of the other witnesses?

The Attorney General. The Coast Guard intelligence officer testified that he took all this material to the office of the F.B.I. and handed it over to them. He did not separately--that is, the Coast Guard officer or the intelligence officer--identify these five exhibits, but this witness testified that they were exhibits turned over by the Coast Guard at his office.

The Witness. I believe they turned them over to Special Agent Lanman, who turned them over to me.

Question by the Attorney General:

Q Well, you were with Lanman?

A No.

The Attorney General. Then, we can call Lanman back.

Colonel Royall. I did not object to it, but I thought they had been articles that had probably been identified by the others. However, I think that we would object on the ground of insufficient identification unless they are connected up by the various persons who handled them, because they may be of some special significance.

The Attorney General. We will call the other agents back before offering these exhibits.

o2 Questions by the Attorney General:

Q There were in addition to what has been exhibited to the Commission three other wooden boxes with containers, the contents or some of the contents of which had been removed; is that correct?

A That is right, sir.

Q Generally the contents consisted of what?

A TNT, I believe, sir, a number of detonators, a number of fuses--

Q (Interposing) That is sufficient; I simply want to trace them.

What did you do with the contents of those containers and boxes?

A Turned all those over to Special Agent Parsons, of the Federal Bureau of Investigation.

The President. Mr. Attorney General, the previous witness, Mr. Lanman, is subject to recall?

The Attorney General. Oh, yes.

The President. He has not been excused?

The Attorney General. No, no; I directed him to stay. He is going to testify further; in fact, all our agents will stay throughout the proceeding.

Colonel Royall. It occurs to us, Mr. President, that possibly all these articles which have not been identified by any member of the Coast Guard--and we might make the point--should be identified by them, because they are the ones who found them on the beach. We did not want those witnesses further because we were of the impression that they had identified everything.

I thought I should state that, for the Attorney General

may want to recall them.

The President. Possibly they could be identified in some other way, but if not, I should think that you might take cognizance of the remarks of defense counsel and perhaps send for those Coast Guard men.

The Attorney General. The Coast Guard officer will not be able to identify these four exhibits separately. He has already testified that all the material was turned over to the intelligence officers of the Coast Guard, and one of those officers testified that he brought them over to Mr. Lanman.

I will recall Mr. Lanman and ask him whether or not these four exhibits were part of what had been turned over by the Coast Guard. That does seem to me to be sufficient identification.

The President. I think that that would be sufficient.

The Attorney General. Cross-examine.

Colonel Royall. No questions, sir.

Colonel Ristine. No questions, Mr. President.

The President. Are there any questions by the Commission?

(There was no response.)

The President. There seem to be none.

I take it, as I understand it, that the witness is to remain?

The Attorney General. He is to remain.

We will recall Mr. Lanman.

Lieutenant Page. Mr. C. F. Lanman. This witness has been sworn as to secrecy.

Colonel Munson. Mr. Lanman, you are reminded that you are still under oath.

Mr. Lanman. Yes, sir.

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The President. I should like to have the witness take the stand, please, and have the information brought out by questions.

The Attorney General. I am sorry; I thought I might save time.

C. F. LANMAN

was recalled as a witness for the prosecution and having been previously duly sworn, testified further as follows:

Questions by the Attorney General:

Q Mr. Lanman, I show you Exhibit P-49 and ask you whether or not that was part of the material turned over.

A This cord was in the duffel bag or the sea bag over there at the time it was in the office of the Coast Guard.

Q I show you Exhibit P-48. Do you remember this?

A No, sir, I don't recall seeing those, sir.

Q P-46?

A There were numerous dirty handkerchiefs, but as to the identity of each one of them, I couldn't definitely state.

Q P-47?

A No, sir--this one was in the duffel bag, yes, sir. I recall this particular one here because I put my initials on it.

Colonel Royall. One of them you did not call by number. It was the first one you asked him about.

The Attorney General. The first one that was identified was some wool.

Colonel Royall. Is that the one he said he did not know about?

The Attorney General. No, that was the only one he specifically did identify.

o5 Colonel Royall. Yes. What number is that?

The Attorney General. That is No. 49.

Questions by the Attorney General:

Q P-50. Do you remember seeing that?

A No, I didn't see that at the time at the office. No, I don't recall seeing that one.

Q As I understand it, Mr. Franken turned over some material?

A He did. He turned over to Mr. Donigan, Mr. Emerich, and myself all the material that was grouped around in the office, and the clothing and a large number of the small parts--particles--or items here were repacked in the duffel bag. Some of those items I did not get a chance to examine at the barge office down there.

Q Everything that had been delivered to you by the intelligence officers of the Coast Guard you turned over to Drayton?

A Yes, sir.

The Attorney General. I offer these exhibits in evidence. They are P-46 to P-50, inclusive.

Colonel Royall. We wish to object to that, sir, and we should like to examine the witness before the Commission rules on that.

The President. Very well.

CROSS-EXAMINATION

By Colonel Royall:

Q Mr. Lanman, whatever was taken from the duffel bag was taken in the presence of the Coast Guard men, was it not?

A The duffel bag was packed at the Coast Guard office by the Coast Guard men and turned over to us. We had an

o6 opportunity to examine the various items that were in the Coast Guard office before the duffel bag was packed, and then I helped to remove the duffel bag to the New York office.

Q The Coast Guard had an equal opportunity with yourself to see what was there, did it not?

A I presume it did, sir; I am quite certain it did.

Q Don't you know that it did?

A It had it in the office down there, and it should certainly have had a chance to examine it all.

Q You initialed, you say, certain of these exhibits?

A Certain of these exhibits I did initial. I recall these exhibits personally. Those that I don't recall--

Q (Interposing) Which of these five exhibits that you were asked about did you initial?

A The cord here has my initials on it.

Q Look at the others and see if any of the others have your initials. That is Exhibit No.--what?

A Exhibit 49.

Q Did you initial Exhibit P-49? That is a handkerchief.

A I recall a handkerchief with a blue border.

Q Has it your initials?

A Yes.

Q Where?

A Right here.

Q That one is numbered what?

A 46; and this yellow handkerchief here, or rag, has my initials on it.

Q What number is that?

A 47.

Q The other two--that is, P-48 and P-50--do not have

o7 your initials, do they?

A No, sir, I do not see them on there, and I don't recall having seen those at the time.

Q There was no particular reason why you should have initialed these three any more than any other, was there?

A No, sir, there wasn't; just that it was part of the material there.

Q Did you initial any of the uniforms?

A After we returned to the office, when I had them identified.

Q You initialed all these various articles that have heretofore been exhibited, in the way of clothing and other articles?

A Certain ones which I had persons whom they belonged to identify.

Q Are there any of those that you did not initial?

A Yes, sir.

Q Why did you not initial those?

A Well, for the simple reason that on returning to the office I did not have the time; I was busy. Later on, when we took them before the man who owned them, I had him initial these and identify them as being his personal property.

Q When did you initial these three here: P-46, P-47, and P-49?

A After returning to the office, sir.

Q What do you mean by "after returning to the office"?

A When we brought the things back, or sometime after returning to the office. I don't recall exactly what time it was we were going over the material there.

Q With whom were you going over it?

A Mr. Emerich.

o8 Q Is he here?

A I believe so.

Colonel Royall. We object, may it please the Commission, to the introduction of Exhibits P-48 and P-50 as being improper.

The President. Will you please describe them to the Commission?

Colonel Royall. Yes, sir. P-48 seems to be some capsules of some kind and a piece of paper. P-50 seems to be a box of matches and a broken shoelace. We object to these as being improperly identified.

The President. Will you identify them by number, also?

Colonel Royall. I did that, sir; they are P-48 and P-50.

The President. Thank you.

Colonel Royall. May I say this to the Commission: This is one of the preliminary questions of fact as to identification which the Commission has to pass on upon the testimony adduced.

The circumstances are that neither of the Coast Guard men who had full opportunity to investigate them, and who were present and had the same opportunity as Mr. Lanman, has identified them as being articles found on the beach or anywhere else. Neither has Mr. Cullen so identified them. Neither has Mr. Lanman so identified them, he being the next person in line to see the material. Mr. Emerich has not been offered to identify them; in fact, he has not been offered at all.

The sole identification comes from the fourth or fifth man who handled these articles, and he says they were in the group given to him.

Another most significant factor is that Mr. Lanman says he went to the trouble of initialing, specifically, three of these articles; that there was no reason why he should have singled

09 them out for initialing any more than any others. Therefore, it is a cogent circumstance, it seems to us, that the others do not bear his initials, and it indicates, it seems to us, as it should to any reasonable men, that they were not present, or else he would have initialed them.

We think that upon the present state of the record these should not be admitted in evidence.

The President. Do you care to make any comment?

The Attorney General. It will be very brief. Mr. Drayton testified that this witness turned all the material over to him. This witness testified that the Coast Guard turned it all over to him. One of the exhibits, P-50, Drayton has initialed. So, it seems to me that the material is identified in a substantial and fair way.

The President. Since questions have been put to the witness in reference to this incident, I should like to ask the other members of the Commission, before I rule, if they care to ask any questions with reference to these particular articles that counsel for the defense charges have not been fully identified, as have the others.

The Attorney General. Would the President permit me to interrupt?

The President. Certainly.

The Attorney General. I should like to have further identification made. I think I can make the case complete. Perhaps, then, it would be unnecessary for you to consider the question. May I call another witness to identify them? May I do that?

The President. Please do. The objection as to the identification by this witness, made on the part of the defense,

o10 is at this stage sustained.

The Attorney General. We will call Lieutenant Franken.

Lieutenant Page. Lieutenant Franken. This witness has been sworn as to secrecy.

Colonel Munson. Lieutenant, you are reminded that you are still under oath.

Lieutenant Franken. Yes, sir.

LIEUTENANT SYDNEY K. FRANKEN was recalled as a witness and, having been previously duly sworn, testified further as follows:

Questions by the Attorney General:

Q Lieutenant Franken, I show you an exhibit marked P-48 and ask you if you can identify it. These are the pills.

A Yes, sir, I can identify this.

Q Was that part of the material turned over to you?

A We found these in the pocket of one of the blouses--jackets.

Q One of the blouses?

A Yes, sir.

Q You turned that over to the F.B.I.?

A Yes, sir, we did.

Q I show you, now, Exhibit P-50, the matches, and ask you if you can identify those.

A Yes, sir, I can identify those. We examined them at Amagansett. We got them from the pocket of the blouse of one of the uniforms, and we turned the blouse over to the F.B.I.

Q Do you remember whether or not the matches or the pills were in the pocket of the same blouse that contained the

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card that has been testified to?

A That I can't recall; they were in the pocket.

The Attorney General. That is all. Are there any questions?

The President. Will the reporter please repeat the last question and answer?

The Reporter (reading):

"Question. Do you remember whether or not the matches or the pills were in the pocket of the same blouse that contained the card that has been testified to?

"Answer. That I can't recall; they were in the pocket."

Question by the President:

Q They were in the pocket or a pocket?

A A pocket.

Colonel Royall. Before the Court definitely rules, may we examine this witness?

The President. Yes.

CROSS-EXAMINATION

Questions by Colonel Royall:

Q Did you when you were on the stand the first time recall that there were other articles that you had not mentioned?

A Yes, sir, I recall that.

Q You did at that time?

A Not at that time, no, sir.

Q What has happened since then to refresh your recollection?

o12 A I was asked whether I recalled having seen the boxes of matches and the shoelace.

Q You did not recall it until somebody asked you whether you had recalled it?

A I didn't recall that when I was identifying the multitude of material, sir.

Q Do you recall anything else that was there that you have not now identified?

A Not just now, sir; I can't.

Q Do you recall this handkerchief?

A No, sir, I don't recall that particular handkerchief.

Q Do you recall this?

The Attorney General. Would you specify that?

Colonel Royall. The first one I asked him about was P-47, and this is P-46.

Questions by Colonel Royall:

Q Do you recall that?

A No, sir, I can't recall that.

Q Do you recall Exhibit P-49?

A Yes, sir, I recall the cord by the way it was bound up.

Q Do you recall any other articles that you have not mentioned?

A I am sorry; I can't think of them just now, sir.

Q Do you recall this cap?

A Yes, sir, I testified to that, I believe.

Colonel Royall. That is all.

Colonel Ristine. May I ask the witness a few questions?

The President. Colonel Ristine.

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CROSS-EXAMINATION

Questions by Colonel Ristine:

Q Lieutenant, did you talk with Coast Guardsman Cullen?

A Yes, sir, I did.

Q Was there any record made of the statement of the incidents which he made to you?

A I made some rough notes at the time, and that was all, because we were in a hurry.

The President. May I ask if this is in connection with the objection of the other defense counsel or if it has to do with the general conduct of the case?

Colonel Ristine. It just has to do with matters in the case generally.

The President. Yes. For the moment, the question of the admission of these articles is the point in question and is the reason why the questions are being asked. I think we would like to have that cleared up first, as to the admissibility of these articles. Then we will give you an opportunity to question along the line you have indicated later on.

The Attorney General. The Commission has ruled on my first offer. I now renew my offer of these exhibits, P-46 to P-50, inclusive, in evidence.

Colonel Royall. The defendants still object to Exhibits P-48 and P-50. We recognize fully the fact that upon the statement of this witness, if that is to be thesole evidence, he has stated enough to identify them. However, we contend that that statement should not carry sufficient weight to this Commission to make those exhibits admissible, in view of the other relevant and material circumstances which we have heretofore called to the Commission's attention, among them being

014 the fact that neither Cullen nor the other coast guardsmen have identified them; that Mr. Lanman, who was present, did not identify them; and that apparently those persons took greater care in listing or identifying by marking than did this witness.

I call further attention to the fact--and I do not mean to be critical of the witness unduly--that this witness is the witness who volunteered statements before which he was not asked for. I call attention to the fact that this witness when he was on the stand did not recollect these until he was asked the specific question and that he cannot identify even now certain of the articles which have been initialed and identified by those who investigated it more carefully. It shows, in our opinion, an uncertainty of mind on the part of this witness which should not prevail over the more positive and definite testimony of other witnesses who made a definite record, who saw them first, and who would have more reason to know if the articles were present.

The President. Have you any further remarks?

The Attorney General. Very few, except, of course, to say that the evidence of the other witnesses is purely negative. They said they did not remember these. The statement of this witness is completely positive. He said, "I remember these pills and these match boxes." I cannot imagine better proof.

The President. I take it that you will raise no objection to these two articles, will you?

Colonel Royall. I raise objection to these two that he has testified about and not to the other three. I raise

o15 objection to P-48 and P-50, the pills and the matches, on the theory that upon the evidence adduced before the Commission, the weight of the evidence is against their admissibility, conceding that this witness' statement if taken alone would make them admissible.

I conceive it to be the duty of the Commission on the admissibility of evidence, where there is conflicting testimony as to its admissibility, to determine that question of fact itself, and I say that upon the testimony the fact should be determined against their admissibility and the evidence should not be received. I refer to Exhibits P-48 and P-50, the matches and the pills.

The President. Is the record now complete with regard to these respective numbers? If so, I should like to have the reporter read the evidence of this witness on his second appearance on the witness stand. As he reads it, I should like to have the two groups identified by number as those accepted by the defense and those that the defense objects to.

The Reporter (reading):

"Question. Lieutenant Franken, I show you an exhibit marked P-48 and ask you if you can identify it. These are the pills.

"Answer. Yes, sir, I can identify this.

"Question. Was that part of the material turned over to you?

"Answer. We found these in the pocket of one of the blouses--jackets.

"Question. One of the blouses?

"Answer. Yes, sir.

"Question. You turned that over to the F.B.I.?

o17 the multitude of material, sir.

"Question. Do you recall anything else that was there that you have not now identified?

"Answer. Not just now, sir; I can't.

"Question. Do you recall this handkerchief?

"Answer. No, sir, I don't recall that particular handkerchief.

"Question. Do you recall this?

"The Attorney General. Would you specify that?

"Colonel Royall. The first one I asked him about was P-47, and this is P-46.

"Questions by Colonel Royall:

"Question. Do you recall that?

"Answer. No, sir, I can't recall that.

"Question. Do you recall Exhibit P-49?

"Answer. Yes, sir, I recall the cord by the way it was bound up.

"Question. Do you recall any other articles that you have not mentioned?

"Answer. I am sorry; I can't think of them just now, sir.

"Question. Do you recall this cap?

"Answer. Yes, sir, I testified to that, I believe.

"Colonel Royall. That is all."

Do you wish me to read the examination by Colonel Ristine?

The President. No; you may omit that.

I may say to the witness that in listening to these questions and answers, if the answers are not as you stated them, I should like you to call my attention to it.

o16

"Answer. Yes, sir, we did.

"Question. I show you, now, Exhibit P-50, the matches, and ask you if you can identify those.

"Answer. Yes, sir, I can identify those. We examined them at Amagansett. We got them from the pocket of the blouse of one of the uniforms, and we turned the blouse over to the F.B.I.

"Question. Do you remember whether or not the matches or the pills were in the pocket of the same blouse that contained the card that has been testified to?

"Answer. That I can't recall; they were in a pocket."

"The Attorney General. That is all. Are there any questions?

"CROSS-EXAMINATION

"Questions by Colonel Royall:

"Question. Did you when you were on the stand the first time recall that there were other articles that you had not mentioned?

"Answer. Yes, sir, I recall that.

"Question. You did at that time?

"Answer. Not at that time, no, sir.

"Question. What has happened since then to refresh your recollection?

"Answer. I was asked whether I recalled having seen the boxes of matches and the shoelace.

"Question. You did not recall it until somebody asked you whether you had recalled it?

"Answer. I didn't recall that when I was identifying

o18 The Witness. Yes, sir.

The President. The same applies to the defense counsel. In other words, I should like to make sure that this record is correct from the point of view of both sides.

Colonel Royall. I think it is correct up to this point.

The Reporter (reading):

"The Attorney General. The Commission has ruled on my first offer. I now renew my offer of these exhibits, P-46 to P-50, inclusive, in evidence.

"Colonel Royall. The defendants still object to Exhibits P-48 and P-50. We recognize fully the fact that upon the statement of this witness, if that is to be the sole evidence, he has stated enough to identify them. However, we contend that that statement should not carry sufficient weight to this Commission to make those exhibits admissible, in view of the other relevant and material circumstances which we have heretofore called to the Commission's attention, among them being the fact that neither Cullen nor the other coast guardsmen have identified them; that Mr. Lanman, who was present, did not identify them; and that apparently those persons took greater care in listing or identifying by marking than did this witness.

"I call further attention to the fact--and I do not mean to be critical of the witness unduly--that this witness is the witness who volunteered statements before which he was not asked for. I call attention to the fact that this witness when he was on the stand did not recollect these until he was asked the specific

o19 question and that he cannot identify even now certain of the articles which have been initialed and identified by those who investigated it more carefully. It shows, in our opinion, an uncertainty of mind on the part of this witness which should not prevail over the more positive and definite testimony of other witnesses who made a definite record, who saw them first, and who would have more reason to know if the articles were present.

"The President. Have you any further remarks?

"The Attorney General. Very few, except, of course, to say that the evidence of the other witnesses is purely negative. They said they did not remember these. The statement of this witness is completely positive. He said, 'I remember these pills and these match boxes.' I cannot imagine better proof.

"The President. I take it that you will raise no objection to these two articles, will you?

"Colonel Royall. I raise objection to these two that he has testified about and not to the other three. I raise objection to P-48 and P-50, the pills and the matches, on the theory that upon the evidence adduced before the Commission, the weight of the evidence is against their admissibility, conceding that this witness' statement if taken alone would make them admissible.

"I conceive it to be the duty of the Commission on the admissibility of evidence, where there is con-

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flicting testimony as to its admissibility, to determine that question of fact itself, and I say that upon the testimony the fact should be determined against their admissibility and the evidence should not be received. I refer to Exhibits P-48 and P-50, the matches and the pills."

The President. Is there any question as to the proper reporting of the remarks?

The Attorney General. No, sir.

Colonel Royall. No, sir.

The President. In connection with this objection of counsel for the defense, the Commission has several questions that it hopes will add to the clarification of this conflict between the two sides.

Questions by the President:

Q The Commission asks the witness: Were there any articles in boxes turned over to the F.B.I. that had not been examined or seen by the Coast Guard?

A There were not any articles in the boxes that were turned over to the F.B.I., with the exception of the bottom layers in the three boxes containing the blocks. In those three boxes we only examined the top layers, and as it appeared that the boxes contained similar material all the way down, we turned it over to the F.B.I. as it was.

Q Did you inspect all the pockets of these garments you have identified?

A Yes, sir, I did.

Q Before they were turned over to the F.B.I.?

A Yes, sir, I did.

The President. Are there any other questions by the

o21 Commission?

(There was no response.)

The President. The Commission will be closed.

(The Commission was then closed. When it reopened, the following occurred:)

Wilf.
fls.
11:27.

REW.
Wilf
fls.
At.
11:40

The President. The Commission is open.

Colonel Munson. The personnel of the Commission, the prosecution, counsel for the defense, except Captain Hummell, one of the assistant defense counsel, are present, as they were present prior to the recess; all of the accused and the reporter are present; and the witness is reminded that he is still under oath.

The President. The Commission rules that Exhibits P-48 and P-50 are admissible as evidence. The objection is not sustained.

(Articles previously marked for identification P-46, P-47, P-48, P-49, P-50, were received in evidence.)

The Attorney General. With the Commission's permission I would like to ask the witness a further question.

Questions by the Attorney General:

Q When you examined this material you have testified, I think, that there were certain wooden boxes there?

A Yes, sir.

Q And one was opened?

A One was opened at the Amagansett station. The other three were opened in the office of Captain Baylis.

Q Were the contents of the boxes taken out when they were opened?

A The contents of the first box, containing various mechanisms, were briefly examined at Amagansett.

Q Who opened it?

A The Chief of the Napeaque station. I was present.

Q And you took all the material and the contents of

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the boxes to the FBI?

A We took all the boxes to the office of Captain Baylis in New York City.

Q Who is Captain Baylis?

A He was Captain of the Coast Guard at the Port of New York.

Q Then what did you do with the contents?

A The FBI agents took the material from his office.

Q What agents?

A Mr. Donigan, Mr. Lanman and Mr. Emerich were present.

Q Did they take from the Coast Guard officers, including yourself, all of the material and the contents of the boxes?

A They took from the Coast Guard office all the material in the boxes and the boxes.

Q And the tin containers?

A And the tin containers, and the wrappings that were around the boxes.

Q Do you know what were the contents of the containers that were taken out?

A In one box, to the best of my recollection, there was quite a bit of material. There were time bomb mechanisms, detonator caps, pencils and pens, small glass vials, fuses; and there was a covered wire, probably about a foot long.

Q Anything else?

A There were small objects that appeared to be made of brass.

Q Do you remember anything else?

A That is about all I can recall just now, sir.

Q All of that material was turned over to Lanman and

3w the other FBI agents?

A Yes, sir.

The Attorney General. May I speak to Colonel Royall?

The President. Yes.

(After a brief conference between the Attorney General and Colonel Royall the following proceedings occurred:)

The Attorney General. You may cross examine.

Colonel Royall. I do not care to ask the witness anything further.

CROSS EXAMINATION

Questions by Colonel Ristine

Q Lieutenant, do you know whether records were made of the statements of the Coast Guardsmen who first saw these things along the beach?

A There was no record made by ourselves, with the exception of some very rough notes, because-- Am I permitted to go into the reason?

Q The reason is not material. Do you know whether any agency at the station on the beach made any detailed report of his statement?

A No, sir; I do not know.

Q You did not see any such report?

A No, sir.

Colonel Ristine. I think that is all.

The President. Are there any further questions?

(No response)

Are there any questions by the court? (No response)

There seem to be none. The witness is excused. I under-

4w

stand the witness will be kept at the disposition of the court.

(The witness left the stand.)

GERHEARD P. HUNDT,

a witness for the prosecution, was called to the witness stand.

Lieutenant Page. I understand this witness has not been sworn as to secrecy.

Colonel Munson. You will take two oaths. One will be the oath as to secrecy, and you understand that any violation of the same is subject to punishment by this Commission as an offense, and you will take it, therefore, with that understanding.

You do solemnly swear that you will not divulge the proceedings taken in this trial to anyone outside the court room until released from your obligation by proper authority or required so to do by proper authority?

The Witness. I do.

Colonel Munson. And the oath as a witness:

"You do solemnly swear that the evidence that you shall give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?"

The Witness. I do.

DIRECT EXAMINATION

Questions by Colonel Munson

Q Will you state your name, residence or office address, and occupation?

A Gerheard P. Hundt. My residence is 1239 Queen Street, Northeast, Washington, D. C.

Q And your occupation?

A I am a translator for the Federal Bureau of Investi-

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gation.

Colonel Munson. If the Commission please, I had better swear the witness also as a translator.

You swear that you will properly interpret and translate in the case now in hearing, so help you God?

A I do.

Questions by the Attorney General

Q Do you speak, read, and understand the German language?

A Yes, sir.

Q I show you Defendants' Exhibit marked for identification P-44.

The President. This is already in evidence, I believe?

The Attorney General. It is already in evidence; and I should like to hand up to the court a photograph of the exhibit so that they can follow the testimony.

Questions by the Attorney General

Q Will you state, first, the words in German that that exhibit contains? You had better spell them out so that the reporter can understand them.

A The first word is "Marineteil."

Q What does that word mean?

A Marine or naval division.

Q You are referring to the printed word?

A Yes, sir; the first printed word on this exhibit.

Q There follows that a word which seems to have been stamped on it. What is that word?

A Shall I give you the German first?

Q Give me the German first.

6w

A "Mar.-Krft.-Komp."

Q What does that mean?

A Naval battalion or company. It may mean either battalion or company. The second word is not very clear. It might be an abbreviation for the German word "Kraft," which means power or motorized company.

Q You are referring to the second word, which appears to be stamped?

A Yes, sir.

Q Continue.

A That would be "Naval motorized company."

Q What does the third stamped word on the third line mean?

A That is "Company."

Q Now, taking the second line--

A How about the rest of this?

Q Oh. There is some more there. I did not see it. Under the first line what appears?

A The German is "Beim O. K." And I believe that is an "M." It is not very clear. If it is "O. K. M." it would be "High command of the Navy." The entire printed stamp would be "Naval motorized company with the high command of the Navy."

Q Those words are the words for which the initials stand?

A Yes, sir. The "O. K. M." I believe are an abbreviation for "Ober Kommando Mariane."

Q Does "Ober Kommando" mean "High command"?

A Yes, sir.

Q Take the second line. What is the first printed

7w word on the second line?

A The German is "Kompanie." That means company.

Q After that word there appears to be a word in writing. Is that right?

A That is right, sir.

Q Can you make out from that word any writing that is in German?

A It appears to be a name; the first name seems to be Henry, and the second is not quite clear, but it looks like it might be an "N" or a "K", as the first letter of the last name; possibly "K." "Kozrar" or "sar."

Q The name perhaps speaks for itself. Are you a handwriting expert?

A No, sir.

Q Have you finished with the third line?

A No. The first printed word on that line is "Name." It is the same in English--Name.

Q Now, the fourth line?

A The fourth line, the German is "Stammr. Nr."

Q What does that mean in English?

A It means "Original number."

Q What is the fifth line?

A The German is "Gegenstand." That means "article."

Q I show you an exhibit marked P-45, which appears to be a slip of paper with some German words on it. Will you read those words in German and then translate them?

A The first word is "Willems" and then "Koln." There are two dots over the "o".

Q That is the second word?

8w

A Yes, sir.

Q Then what appears?

A A small "a". Then "Rhein." The second line is the ending of a word, apparently "es." Then the next word is "Hartwichstr. 48", in numerals, and then "Ruf 74783". I am not quite sure of that number.

Q Will you translate that?

A The first word appears to be a name, "Willems." The second, or, rather, the last three words on that line, is the name of the German city Cologne on the Rhein. The "es" appears to be the ending of a word which cannot be distinguished. The next word is "Hartwich Street, 48; the telephone, and the number.

The Attorney General. You may cross examine.

CROSS EXAMINATION

Questions by Colonel Royall

Q Where did you get your knowledge of abbreviations that you testify about?

A I have been a translator for the Federal Bureau of Investigation for a little over two years. I was born in Germany and came to America at the age of 8. I attended school in Germany for two years.

Q You did not study military abbreviations, did you?

A I have not studied them, but I have gone through quite a number in work for the Bureau.

Q Are you confident that those abbreviations that you stated are correct?

A May I ask which ones?

Q There are several of them here.

9w

The Attorney General. Which exhibit?

Colonel Royall. Exhibit P-44.

Questions by Colonel Royall

Q What is that first one?

A That is "Mar."

Q What is the second one?

A "Krft."

Q Are you sure what "Krft." stands for?

A I do not believe I have ever seen it stand for anything but "Kraft."

Q You stated, I believe, that the last word may mean either "company" or "battalion"?

A Yes, sir.

Q Is it not a fact that there is a German word for "battalion" spelled exactly like the English word?

A That is right. I would say definitely, now, that that word means "company."

Q Why do you change your mind?

A Merely because I thought there was a possibility. I am not very well acquainted with military terminology, although I know the word in German definitely means "company" when translated into English.

Q You say you are not a handwriting expert. Are you familiar with German handwriting?

A Yes, sir; I am.

Q German script?

A Yes, sir.

Q What is your best judgment as to what that name is on Exhibit 44 that seems to be in German script?

A The closest I could come to it would be "Henry

10w Kozsar."

Q Is that written in German script or in English (indicating)?

A It is more or less English script rather than German. It is a mixture of both. The first letter is not a very good German "H" nor is the "n" a very good German "n" in the word "Henry."

Q Which part of it is definitely not English?

A The final "r" is more like German than any of the other letters.

Colonel Royall. That is all.

The President. Are there any questions by the Commission? (No response) There seem to be none. The witness is excused.

(The witness left the stand.)

The Attorney General. With the permission of the Commission I will substitute for the original exhibits that have been shown the witness two photographs of the exhibits and will ask the reporter to mark those two photographs with the same identifying initials and numbers as the original exhibits.

I have had marked this pair of trousers "P-51". I cannot remember whether I introduced this material in evidence or not, with the understanding that the photographs will be put in the original record.

(A photograph of a pair of trousers was marked P-51 and received in evidence.)

D. J. PARSONS,

a witness for the prosecution, was called to the witness stand.

Colonel Munson. You will be asked to take two oaths. The first oath is as to secrecy, and you will understand that

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in taking that oath, any violation of the same subjects you to punishment by this Military Commission as for a criminal contempt under any statute. Is that understood?

The Witness. Yes, sir.

Colonel Munson. You do solemnly swear that you will not divulge the proceedings taken in this trial to any one outside the court room until released from your obligation by proper authority or required so to do by proper authority?

The Witness. I do.

Colonel Munson. And also the ordinary oath of a witness.

You swear that the evidence you shall give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

The Witness. I do.

DIRECT EXAMINATION

Question by Colonel Munson

Q Will you please state your name, residence or office address, and occupation?

A My name is D. J. Parsons. My residence is Alexandri Virginia. I am a Special Agent of the Federal Bureau of Investigation.

Questions by the Attorney General

Q How long have you been with the Federal Bureau of Investigation?

A Eight and a half years.

Q In what capacity?

A I am assigned to the Technical Laboratory, with the duties of making examinations of physical evidence, particularly with reference to explosives, incendiaries, and sabotage instruments.

12w

Q What was your training and experience prior to coming with the Federal Bureau?

A I am a chemist, graduated from George Washington University.

Q What year?

A 1935.

Q Mr. Parsons, on June 13 were you given certain material by other agents of the FBI?

A I was, in New York City.

Q At the office of the FBI in New York City?

A Yes.

Q Who were the agents that gave you the material?

A Assistant Director E. J. Connelley, and Special Agent in Charge Drayton.

Q Did you make an inventory of it?

A I did.

Q Have you got it with you?

A Yes, sir.

Q Have you a copy that I can give to counsel?

A I have.

Q Will you read your inventory?

A (Reading):

"At 8 p. m. on June 13, 1942, Assistant Director E. J. Connelley and Special Agent in Charge S. J. Drayton accompanied by Mr. D. J. Parsons of the Bureau and the writer, inventoried the property taken as evidence in the instant case, in the shooting range located in the basement of the Federal Court House, Foley Square, New York, N. Y.

"The following is the list of property as described by Mr. Parsons of the Bureau:"--

Q The material is being brought in. Do you wish to identify the objects as you read your inventory?

A I have some specimens here, sir.

Q Then proceed with the reading of the inventory.

A (Reading further):

"2 small bags marked 'C. Heinrich Anton Dusburg Reissbanzunder'--6.1939, containing 10 fuse lighters. (Pull wire).

"1 small paper bag containing 5 fuse lighters.

"25 electric blasting caps .30 caliber.

"50 electric match heads contained in small brass tubular adapter (in small unmarked paper bag)."

The way it is here is "leads." That is a typographical error. (Continuing reading):

"15 Wooden block containers approximately 2" x 3" presumed to contain 5 detonators each with threaded ends.

"10 wooden block containers approximately 1" x 3" presumed to each contain 5 short detonators with threaded ends (one opened and found to contain detonators).

"1 small brown paper bag marked '25 Brand Kapseln' containing 5 blocks approximately 1" wide similar to above item except that one edge marked with red pencil lines.

"1 small brown paper bag containing 5 copper tubes similar in appearance to detonators but with no apparent charge. Also five"--

It says "3-3/4 inch." It should be three three-quarter inch--

"brass tubes closed at one end and threaded on the other.

"1 small brown paper bag containing 25 thin brass tubes open at both ends and threaded at one end.

"1 flat cardboard box containing 11 glass capsules encased in rubber tubing (tubes contain clear colorless liquid, probably sulphuric acid).

"1 box bottom containing 10 brass and plastic devices holding a small charge of what may be a chlorate mixture protected by a paper diaphragm. (with brown paper around it and writing in German thereon 'For F. O. Miuntan(?)' H_2SO_4 'Eboint(?)' "--

Colonel Royall. If the Commission please, as this memorandum contains a number of conclusions as to what something probably is and what it probably is not, I would like to ask the Attorney General, Do you intend to supplement this evidence by supplying expert opinion on what these things are?

The Attorney General. I do not think this contains, with one exception, any conclusions. I think he is trying to state in his last statement what the German word appeared to him to be, which is proper.

In answer to the question, I propose first to have this witness identify by his inventory all of the material taken from these four boxes, and then have an expert describe to the Commission certain striking objects which were analyzed by him in his laboratory, taken from these. I do not propose to have him go through every single object, but I propose to have him explain certain objects and any other objects which the Commission wish explained.

Colonel Royall. There are several instances where he

says something is presumed to contain something, which of course would not strictly be evidence.

The Attorney General. I will follow that by the laboratory tests.

Colonel Royall. If it is to be connected up, that is all right. That is the purpose of the inquiry.

The Attorney General. I suggest that the witness omit presumptions, and then I will ask the witness as a result of his laboratory experiments to show what they were.

The Witness. The next item was (reading):

"1 box bottom containing:

"(a) 2 leatherette cases each containing two mechanical pen and pencil sets which are time delayed detonators with pink tag attached indicating 6 to 7 hours.

"(b) 2 leatherette cases each containing a mechanical fountain pen and pencil set bearing blue tag 'American fountain pen' and indicated as 2 3/4 hrs. to 3 3/4 hrs.

"(c) 1 leatherette case containing a mechanical fountain pen and pencil set bearing blue tag indicating 11 to 13 hrs."

In my inventory I also had a metal can opener marked "King, Turner & Seymour Manufacturing Company, Torrington, Conn., U. S. A.," (Reading further):

"(e) 5 small brown tablets approximately ½" in diameter rolled in tissue paper marked 'Rhiz Rhei 0,5 - Wehrpreissanitatspark X.'

"(f) 2 French match boxes with the following writing thereon: 'Alumettes de Surete'. On the left side of

the box the numerals '0.F.-50'. Directly beneath 'Regie Francaise', and in the right hand corner '101 E.S.E.I.T.A. 50 All'.

"(g) 1 box of German cigarettes with this label, 'Haus Neuerburg-Kolna Rhein Triera d. Mosel, Hamburg, Munchen'. This box contains 4 cigarettes and had apparently been carried in a man's pocket."

That part is a presumption. (Continuing reading):

"(h) 1 black shoelace broken in half.

"(i) 1 green colored card 1½" by 3½" with the name in pencil and apparently the name of the company to which the man is attached"--

That, again, is a presumption.

Cinci
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12:15 pm

1b
Cinci
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12:10

One piece of white paper, approximately 3¼ x 1½ inches, bearing the typewritten name "Willems Koln," which is on the list.

One box containing ten clocks in metal cases 3-5/16 x 1-5/16 and bearing serial Nos. K104, K115, K118, K121, K122, K124, K126, K132, K135, K139; ten metal buttons for setting the firing pins on the clocks; ten caps set in knurled screw to fasten to clocks.

Four wooden boxes, 21 x 11 x 8½ inches--

Questions by the Attorney General:

Q Is that (indicating) one of the wooden boxes?

A Yes, sir, that is one of the wooden boxes.

Q That is one of the tin containers (indicating)?

A Yes, sir, that is the tin container

The Attorney General. What is that exhibit number?

Mr. Ladd. P-31 on the tin and P-23.

The Witness (continuing). Two of these with no markings whatever; one box marked "X"; one box marked "XX."

Questions by the Attorney General:

Q This (indicating) is the box marked with one X, is it not?

A Yes, sir.

Q All right.

A All four of these boxes were torn practically completely apart in removing the tin containers of the explosives. Part of the steel strippings were retained and part of the tarred rope, which probably--well, that is a conclusion also.

One tin box containing eight demolition blocks, 3 inches

2b

by 2-5/8 by 5-5/16, yellow in color, and having a hole in one end; three rolls of black safety fuse; one cardboard box containing four bombs simulating lumps of coal. Also one roll of black safety fuse and one roll of detonating fuse.

Two tin boxes, each containing 18 demolition blocks, which were 3 inches by 2-5/8 by 5-5/16. In one of these blocks was a small piece of paper bearing the writing "Harmsch", I have it here.

One tin box containing two demolition blocks.

There are also attached to this memorandum, for the purposes of further identification, the following:

One small white piece of paper which was attached to one

6 of the demolition blocks and apparently the word"Harmsch" written thereon.

There is another item here. One green card, 1-1/2 inches by 3-1/2, with a name which appears to be Henry Wozsar, was the way I gave that name at the time.

These are reiterations of items that I previously mentioned.

Q I think, simply for the purposes of identification, you need not give the items. Have you described everything yet?

A Yes, sir, I have.

Q I am not quite clear what you mean by "reiterations"? What do you mean by it?

A I completed the inventory with the item one tin box containing two demolition blocks.

The rest of this memorandum indicates the disposition of some of the items I mentioned above, the pieces of paper and also samples of the devices which are included in the memorandum

3b

which I took into my immediate custody.

Q Have you detailed the contents of all of the boxes?

A Yes, sir.

Q All of the boxes?

A Yes, sir.

Q Did you make or were there made in your presence photographs of the containers and some of the contents of the containers?

A There were, in my presence and under my direction.

The Attorney General. Will the stenographer please mark these photographs for identification?

(Various photographs were marked P-52 through 61, respectively.)

Questions by the Attorney General:

Q Did you make a laboratory test of this material?

A I did.

Q Now, I show you photographs P-52 to P-61, and before identifying them separately, will you tell me whether they are photographs of some of the material and the objects which you had?

A These are photographs of the material which I have just listed in the inventory.

Q Now, I wish you would take each item shown by the particular photograph, describe what it is, its uses, its action, at the same time referring to the particular photograph which represents the object.

A Shall I take those in the order--

Q You do it in any order convenient to you. Will you refer to the number, Mr. Parsons?

4b

A Yes, sir, I will.

Q Do it in any order convenient to you.

A The photograph marked for identification "P-58" is a photograph of three of the metal cans, two of which each contained 18 demolition blocks. The third can contained two of these blocks.

Q After identifying the photograph of the object, I would like you to hand it to the Commission. I want you in each instance to describe the material, of course, shown in the photograph.

A This is one of the demolition blocks shown there. It weighs approximately one kilogram. That is approximately 2.2 pounds.

I made an examination of this material and found it to be Trinitrotoluene, TNT.

Q Would you describe the block more?

A This block is a yellow material, cast in a block approximately 2-5/8 inches by 3 inches by 5-1/2 inches, and in one end a hole has been drilled to permit the insertion of a detonator necessary to cause this block to explode.

Q Could the block be exploded by otherwise than that?

A It would take a higher frequency shock than simply dropping it. TNT will, in nearly every instance, withstand the shock of a rifle bullet. As a matter of fact, with one of these blocks, in checking on its sensitivity, I fired a rifle bullet into one of the blocks, which simply broke into many pieces--many fragments.

Now, will you describe the explosive power and effectiveness of the block that you hold in your hand?

5b

A TNT is a well-known explosive and is used largely for cutting--that is, it is of a high velocity and a violent explosive, and is therefore used for such work as demolition rather than for general blasting.

In contact with material its high velocity gives it great cutting power, and consequently could be used for destroying such things as steel rails and steel girders.

Q Would that particular block be capable of destroying steel rails or girders?

A It would take only approximately half of a block like this--that is, in the neighborhood of a pound--to break a railroad rail.

Q All right.

A The next photograph, which is marked for identification "P-59," is a photograph of the fourth can--that is the

7 particular can that we have here in evidence--and shown with it are eight of the demolition blocks such as the one I just described, four objects simulating lumps of coal, four coils of safety fuse, and one roll of detonating fuse.

Q Is that one of the lumps of coal in front of you which you mention?

A This is. This is a block simulating a lump of coal. It contains within a small block of TNT--that is, material which I have just described--covered with a plastic material to conceal its true identity.

Q What is the plastic material? Do you know?

A It is a pitch composition, and it is not similar to material that we commercially have here, but is somewhat similar to plastic material such as that used in wood repairing, like

6b

plastic wood, but it has something very similar to pitch mixed in it.

Q Is that a hole in it also?

A There is a hole in this article, which also permits the introduction of a detonator.

In order to use this, it would be necessary, of course, to insert a detonator, because in a fire it would simply be consumed by the fire. Fire does not cause explosion of TNT, particularly in such small quantities as we have here.

Q Will you describe to the Commission precisely what a detonator is?

A A detonator is a small instrument which contains an explosive, or a combination of explosives, usually, having a very high velocity, a sufficiently high velocity to set up the explosive wave necessary to initiate such stable explosives as TNT.

Q Is that a detonator before you on the desk?

A This is an electric detonator here.

Q Was that one of the objects shown in the photograph?

A Not in the particular photograph P-59.

Q But that detonator is one of the objects that you examined?

A It is, yes, sir. That is shown in a subsequent photograph.

Q Will you further describe the object that you have?

A I mentioned the fact that a detonator is necessarily included with this, such that the fire will set off the detonator, and the explosion of the detonator will set up the explosive wave necessary to initiate the TNT and cause the

7b

explosion of this bomb.

Q Does or does not this detonator fit the hole in that object?

A It does.

Q What does the detonator contain?

A This particular detonator contains a charge of explosives. I do not know the exact chemical detonators that this particular brand contains. I have not as yet opened it. They are a little hard to open with the sensitive explosives contained therein.

Q Have you finished your description of this?

A Yes, sir.

Q Have you described the detonator?

A There are two other articles in the photograph shown. There are shown four rolls of safety fuse, of which this (indicating) is a piece.

This safety fuse is a commercial product similar to that universally used and manufactured in this country, slightly different in the materials used and in its construction, but the principle is the same. It is simply a convenient way of carrying around a little powder train to carry a flame which is started at one end by a match or some ignition device, the burning of that powder at a rate of approximately a foot every 30 seconds--this particular fuse is a little bit faster than our American product--and at the end a flash of flame is lighted which is sufficient to initiate a number of different types of detonators.

Q Did that particular fuse fit any explosive object?

A It does.

8

Q Which one?

A This fuse fits the fuse detonator such as that included in this lot of material.

The President. Mr. Attorney General, the hour for recess has come, and we will close the Commission until 2 o'clock.

(At 12:30 o'clock p.m., a recess was had until 2 o'clock p.m.)

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A F T E R R E C E S S

The Commission reconvened at 2 o'clock p. m., upon the expiration of the recess.

The President. The Commission is open.

Colonel Munson. Let the record show, if the Commission please, that all the personnel of the Commission, of the prosecution, and of the defense who were present at the close of the last session in this case are again present and that all eight of the accused and also the reporter are present.

Lieutenant Freeman has not been sworn to secrecy, and he is now in the room. Will he come forward, please?

(Lieutenant Freeman stepped to the front of the hearing room.)

Colonel Munson. Lieutenant Freeman, you understand that this is an oath of secrecy as to what transpires in the courtroom and that violation of the oath subjects the offender to punishment in contempt proceedings or other proceedings?

Lieutenant Freeman. I do, sir.

Colonel Munson. Please raise your right hand.

(The oath of secrecy was then administered to Lieutenant George S. Freeman by Colonel Munson as follows:)

Colonel Munson. You do solemnly swear that you will not divulge the proceedings taken in this trial to anyone outside the courtroom until released from your obligation by proper authority or required so to do by the proper authority?

Lieutenant Freeman. I do, sir.

o2 D. J. PARSONS,

a witness for the prosecution, on the stand at the time of taking the recess, was recalled and testified further as follows:

Colonel Munson. The witness is reminded that he is still under oath.

The Attorney General. May I proceed, Mr. President?

The President. Please do.

The Attorney General. I shall ask the reporter to mark these eleven photographs with the next exhibit numbers.

(11 photographs were marked as Exhibits P-62 to P-72, inclusive.)

The Attorney General. There have now been marked as exhibits the photographs of the material already described and which the witness will describe. They are exhibits P-52 to P-72, inclusive. In order to save time, I should like to offer all these exhibits, P-52 to P-72, inclusive. They are photographs of the material already introduced and to be introduced. I should like to have them spread in the original record and have the exhibits of which these are photographs turned back at the end of this session to the F.B.I. for protection.

The President. If there is no objection, that will be done.

Colonel Royall. There is no objection.

The Attorney General. These are exhibits 52 to 72, inclusive.

Colonel Royall. You have already put in Exhibits P-52 to P-61. I should like to see the new ones.

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(The Attorney General handed photographs to Colonel Royall.)

Colonel Royall. Will you pardon us a moment while we look at these?

The Attorney General. Certainly.

DIRECT EXAMINATION--Resumed

Questions by the Attorney General:

Q Mr. Parsons, what photograph were you engaged in describing when we recessed?

A Exhibit marked for identification P-59.

Q Of what is that a photograph?

A That is a photograph of one of the tin containers, showing the contents, which consisted of eight demolition blocks, four bombs made to simulate lumps of coal, four rolls of safety fuse, and one coil of detonating fuse.

Q Will you continue with your description of the objects shown by the photograph which you have described, exhibiting that to the Commission as you do so?

A I had just completed description of the safety fuse which is used to carry the flame to a detonator used to initiate the high explosive.

The President. We will take a recess for a moment, please.

(The proceedings were briefly suspended. The following next occurred:)

Questions by the Attorney General:

Q Continue, Mr. Parsons, please.

A I have here also a photograph which is marked P-72, showing a detailed picture of the piece of safety fuse which I

04 have exhibited.

Q I suggest that you hand the photographs to the Commission when you refer to them.

A Shall I pass the exhibits also?

Q Yes. You may continue.

Colonel Royall. Has this fuse been put in evidence?

The Attorney General. We are putting only the photographs in evidence for the record.

The Witness. The remaining item in the photograph marked P-59 is a coil of detonating fuse, a portion of which I have here. This is a piece of material containing a core of high explosive and is used commercially throughout the world.

The use of this detonating fuse, as it is called, is to connect various charges of high explosives which are to be set off simultaneously. The velocity of the detonating fuse is quite high, so there is a very small interval of time between the explosion of various charges that are connected with this material.

Q Is that calculated to connect any of the objects you have referred to or will refer to?

A Yes. This detonating fuse, for example, would be used to connect two charges of the demolition blocks which were to be exploded simultaneously.

In demoltion work, for example, if girders on some structure were to be cut and broken simultaneously, it would be possible to place the two charges and simply connect those charges with a piece of detonating fuse. The fuse itself must be set off by a detonator, similar to the block of TNT.

Since it detonates and carries the explosive wave, it is not necessary, then, to put detonators with the explosive

charge but simply to connect the explosive charges together with this material.

Q Will you hand up the objects as you hand up the photographs?

A Yes, sir.

The photograph marked P-68 shows in detail the piece of detonating fuse which I have exhibited.

That completes the items shown in photograph P-59.

To supplement that photograph, I have here photographs marked P-60 and P-61. The photograph marked P-61 is a photograph of the demoltion block in its wrapper, and I have already explained the function of that block.

Q As you testify from the photographs, I should like to have the object identified here and shown to the Commission.

The President. I should like to speak to General Cramer, please.

(General Cramer stepped to the bench and conversed with the President.)

The President. Just go ahead with the proceedings, please.

The Witness. The photograph P-61 is a picture of the demolition block which Mr. Ladd has shown to the Commission.

The photograph P-60 is of the simulated lump of coal containing high explosive.

Questions by the Attorney General:

Q You have already testified, I think, that each of those objects contains a hole which fits the fuse.

A Yes, sir. Those holes are provided for the detonators.

Q All right. You may proceed, Mr. Parsons.

A The next photograph, of the entire lot of materials

o6 which I examined in New York City, is marked P-56 and shows the contents of a cardboard box in which there were contained detonators and other devices used in setting off the explosives and preparing the fuses.

In this photograph there are shown fuse lines, and I have here a small paper bag which I described in the inventory, which was one of the bags containing fuse lighters in the material recovered.

Q Was that in the cardboard box?

A Yes, sir.

Q Is the cardboard box in the room? It is not material.

A I believe not, sir.

Q All right.

A This fuse lighter is a small paper tube which has a hole in one end, in which there is to be introduced a piece of safety fuse. This is simply a convenient method for lighting safety fuse. It is operated simply by pulling the button, which causes a flash of flame sufficient to ignite the fuse. Safety fuse is ordinarily a little difficult to light with a match unless the end is split.

Commercially there are used in this country fuse lighters similar in principle to this one, though different in construction.

There were 25 of these fuse lighters in the lot of material.

Q Is that a safe object to hand up to the Commission?

A Yes, sir. The only thing that happens when this wire is pulled is simply a little flash of flame.

o7 Q Will you hand that up with the photograph?

A I will.

The photograph P-67 shows in detail one of the fuse lighters which I have described.

There is also shown in the photograph P-56 a group of 25 electric blasting caps. A blasting cap is simply another name for a detonator. These are another commercial product which are universally used.

The small copper tube contains a relatively small charge of a combination of very violent explosives.

Within the cap there is a small bridge wire or filament connected to two leg wires. These wires when attached to a source of electrical energy heat the filament within, causing the explosion of the explosive materials.

Q What is the material?

A I cannot tell you from actual examination what the material is in this. I can tell you what it is in our commercially made caps in this country.

Colonel Royall. We object to that.

The Attorney General. I do not think it is important.

The Witness. All right, sir. They are of necessity very high velocity and violent explosives.

Questions by the Attorney General:

Q Will you hand this up?

A This cap, incidentally, is of the size to fit in the hole in a demolition block and coal bomb.

Q You have spoken of coal bombs and demolition blocks. Do you remember how many of the blocks there were?

A Yes, sir; 46 of the kilogram demoltion blocks.

o8

Q By that you mean the small yellow block introduced?

A Yes.

Q How many of the coal bombs were there?

A Four of the coal bombs.

The photograph marked P-64 is a detailed photograph of the electric blasting cap which I have just described. This is an explosive item. Shall I hand this up?

Q Perhaps Mr. Ladd could show it to the Commission without handing it up.

A The next item shown in the photograph marked P-56 is a group of small devices which are actually electric matches. These are brass tubes with a small screw cap on the end, and when the cap is removed there can be seen what appears to be a match head within.

The function of this device is such that when connected to a source of electrical energy, it will give a flash of flame. This can be used in a number of ways.

In the subsequent photographs and items which I shall exhibit will be found detonators and igniters which have threads to fit this electric match. Therefore, the detonator can be screwed into this device to make substantially an electric blasting cap, such as that which I have described. To my knowledge, there is nothing of this type that is commercially manufactured for general use.

In lieu of a detonator, a special igniter, which also is present in the material, can be screwed into this electric match, so that a device is then created sufficient to ignite incendiary materials such as thermite.

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Photograph P-63 is a detail photograph of the electric match which I have just described. There is also shown in Photograph P-56 a small paper bag which contains copper tubes which are similar in size and shape to the containers for detonators or fuse blasting caps. In other words, in commercial blasting there are two general types of detonators that are used for high explosives: one is the electrical blasting cap to permit an electrical initiation of high explosives; the other a fuse blasting cap such that a safety fuse is ignited to set off the charge of high explosive, thereby giving the delay necessary for safety.

These copper tubes in the exhibit I am now describing have no charge. They are what we refer to as dummy blasting caps which are used for instruction.

In the same bag with the dummy blasting caps which I have just described there are also five small brass devices which are closed at one end and threaded at the other. These devices are identical in size and shape to the actual detonators which I will subsequently describe. These have no charge and are naturally safe to handle.

Q If you have notes showing it you might in each instance, where you refer to a particular mechanism or device, state how many there were in the material that was given to you.

A Yes, sir. There were five of these dummy detonators and five of the dummy blasting caps.

Also in the lot of equipment which is shown in Photograph P-56 are small brass devices of which there were 25, I believe, thin brass tubes. These brass tubes have one end threaded to accommodate either a detonator or an igniter.

2w Hence, by screwing together the detonator and the brass tube adapter, it is then prepared so that a piece of safety fuse can be introduced. This then would accomplish the same purpose and be identical in principle to the blasting cap. The three items which I have just described are shown in detail in Photograph P-62.

Also shown in Photograph P-56 are a number of wooden blocks. There were three types of wooden blocks. One of these was approximately 2 or 3 to 3½ inches in size, the size varying a little. These were completely sealed so that they appeared to be a solid block of wood. There were 15 of these particular blocks in the lot of material.

Q Five of each kind?

A No, sir; 15 of this particular type. One of these blocks I opened and found that each block contained five fuse caps or detonators to be used with safety fuse.

Q Have you got both the opened and closed blocks of this type there?

A Yes, sir; I have. Here (exhibiting) is one that has not been opened. This particular one is fairly obvious as to the top which was sealed. Along the edge there can be seen little evidence of the top having been glued on.

Q You might hand those up to the Commission.

A These are shown in detail, as to one of these blocks, in Photograph P-70. These are also explosive.

Q Perhaps Mr. Ladd had better handle them.

A Also shown in Photograph P-56 of that group and also shown in Photograph P-70, which Mr. Ladd now has, were ten smaller wooden blocks. These blocks were similar in construction, and upon opening one of these blocks it was found

3w

to contain five of the special detonators which are threaded on the end. These detonators contain a charge of high explosive and can be used either with the electric match to make an electric blasting cap, or with the small brass adapter to make fuse blasting caps.

Q Did you analyze any of the explosive?

A No, sir; I did not. I was not able to open one of these and remove the explosive charge, but I did set off two or three of them in tests.

Q What were the tests, and what did they show?

A The tests were to determine that they were detonators and that they were of sufficient velocity to initiate high explosives.

Q What did you do with them?

A I attached a piece of safety fuse to one of these detonators and with it set off a piece of the detonating fuse.

I can leave one of these detonators removed here in this envelope so that it can be viewed.

Also shown in photographs P-56 and P-70 is another type of block. There were five of these contained in the material recovered. These blocks are similar in principle to those I have just described containing the special detonators, with one exception. They were similar in appearance. The exception is that along one side is a red line. These five blocks were contained in a small envelope which, as stated in the inventory, we marked "25 Brand Kapseln."

Upon opening one of these blocks it was found to contain five articles similar in construction to the detonators; that is, they had the same threaded end to permit their use either

4w

with safety fuse or the electric match. However, instead of containing an explosive charge, these small caps contain an ignition charge for incendiaries, such as thermite. In other words, there is sufficient heat created by one of these igniters in its burning to melt the brass container.

Q Did you make a test on any of those?

A Yes, sir; I did. I made a test of one of these to see if it would ignite thermite. Thermite is an incendiary mixture which cannot be ignited by a match, because the temperature must be raised to a point at which chemical reaction will start; and therefore I was interested in knowing whether one of these would create sufficient heat to ignite thermite, and I found that it would.

Q What is thermite?

A A mixture of aluminum and iron oxide.

Q Is that a high explosive?

A No, sir; it is purely an incendiary. It creates a temperature of approximately 5,000 degrees.

That is the last item shown in Photograph P-56.

Q What is the next one?

A The next photograph is marked P-53. This photograph shows ten small devices, one of which I have here, which are constructed of brass and a plastic material. These devices have a small top which can be unscrewed, and it is threaded into the plastic container. Beneath the plastic there is a small charge of a mixture of potassium chlorate and sugar. Potassium chlorate and sugar is a mixture which can be ignited simply by coming in contact with sulphuric acid. Consequently it is a delay device, set so that when concentrated sulphuric acid is introduced into the plastic

5w container to which the top can then be returned, the acid will eat through the plastic, setting off the chlorate and sugar. Then this will give a flash of flame out of the bottom of the container, which is threaded so that either a detonator or an igniter may be screwed into the article. This device could be used, after the acid has been placed in there, for setting off either high explosive or for igniting incendiaries, such as thermite.

Q Are they identical?

A All ten of these articles were identical.

I might say that in that test one of the containers was marked as having a delay period of 70 minutes, but in an actual test it was found that it would delay action for 57 minutes, at which time the flash of flame would ignite the detonator.

This article which I have just described is shown in detail in the photograph marked "P-65."

The photograph which is marked P-54 shows a small box in which there were 11 small glass capsules, each protected by a piece of rubber tubing, in which capsules were found to contain concentrated sulphuric acid in a quantity sufficient to be used with the small brass and plastic delay devices which I have just described. This capsule is simply a piece of glass tubing with the ends sealed, and by breaking the ends acid could be removed from the capsule and placed in the desired container. This capsule is shown in detail in the photograph marked P-66.

The photograph marked P-55 shows five pen and pencil sets. These pen and pencil sets are contained in small leather cases and, in appearance, are fountain pens and

6w mechanical pencils. It was found, however, that these are actually delay mechanisms. The pen is marked "American Fountain Pen" and has a metal clip, gold in color, and a fountain pen nib or point.

Q Is there any marking on it?

A Yes; there is a marking on the fountain pen nib which says "Warranted chrome tin iridium," similar to the guarantee that is on gold fountain pen points.

This pen and pencil set was found to be a delay mechanism. The body of the fountain pen, instead of containing an ink sack, was found to contain a capsule of concentrated sulphuric acid. I can remove this and show the construction of it. This capsule (indicating) of thin glass contains sulphuric acid. In the end of the pen is a knob which, when turned, raises a small platform in the body of the pen. When retracted the capsule will fit into the body of the pen on a little rubber disk. It is obviously just for protection. Above the capsule is a small iron ring which has two teeth protruding, which drops in on top of the capsule. Behind the point of the pen there is affixed a small disk of celluloid which acts as the delay diaphragm. The body of the pen when completely removed therefore contains sulphuric acid which is retained in the body by the sulphuric acid diaphragm.

To set this part of the mechanism in operation it is simply necessary to turn the knob which will break the capsule, releasing the acid, which will eat through the celluloid diaphragm and come through the nib of the pen. It is necessary to use both of these items together. The point of the pencil, when removed, exposes a charge of potassium chlorate and sugar similar to that contained in the brass and plastic

7w

delay devices. When the top of the pencil is removed there is found a space in which there is a small supply of additional lead for the pencil; and when the clip is removed and the portion holding the clip in place, there is found a detonator such as that contained in the wooden blocks which I have previously described.

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This detonator is then removed and placed in the point end of the pencil. The pencil, incidentally, is marked "The King." I do not believe I mentioned that.

Now, to complete the device, it is simply necessary to introduce the fountain pen into the pencil body and the delay mechanism is complete.

Q How do you say it was set off?

A When put together in this fashion it is only necessary to turn this knob at the end of the fountain pen body to crush the acid capsule, and that will put it in operation.

Q Could you, after having analyzed it, describe the force of the explosion which would then take place in terms of its effect?

A The force of the explosion from this would simply be the explosion of this detonator, which would be sufficient to set off any high explosive such as the TNT demolition blocks.

Q How many of those packages of pen and pencil were there?

A There were five of these and marked as having different delay periods. This particular one which I have before me bears an identification tag, "American Fountain Pen." On the reverse side is the description, "Mindest (minimum) two and three quarter to three and three quarter std. (hours)"

There were two sets in this lot which were indicated as having delays of six to seven hours and one set indicated as having a delay period of eleven to thirteen hours.

Q So that I am perfectly clear, if one of these were screwed in, started working, and connected with an explosive, it would, after the period of time indicated, cause an explosion

2b

when connected with TNT or any other high explosive?

A Yes, sir. Since the igniters are similar in size, these could be replaced with one of these igniters and this could be used to ignite thermite or another incendiary.

Shall I put this together before it is exhibited?

Q I think it had better be unassembled, so as to put it in a safe condition.

The President. I think we have seen it sufficiently.

Questions by the Attorney General:

Q Will you continue with your next?

A This photograph, P-55, also shows several miscellaneous items which are mentioned in the inventory, the two boxes of safety matches, the German cigarettes, the broken shoelace, and the laxative pills.

Photograph P-52 shows a group of ten clockwork delay mechanisms. I have one of these devices here, which is a small black metal case. This is accompanied by a small cap and a small button.

In the lot there were ten of these clocks, ten caps, and ten buttons.

Extending from one edge of the clock is a notched wheel, which is simply used for winding the mechanism within. Also on that edge is a small lever, which is simply a safety to be used in setting the firing pin.

On the other edge there is a threaded hole into which a firing pin projects, so that the cap can simply be screwed into the threaded hole.

On one side of the mechanism there is a small indicator wheel which shows the period of delay.

On the other side is a small button to be used for setting.

The indicator wheel shows that a delay period of fourteen days can be obtained with this device. In an actual test which I ran, the clock was set for a 14-day delay period, and actually went off in a period of 14 days and 3 hours.

Upon opening one of these devices it was found that it contained a small 13-jewel wrist watch movement from which the spring had been removed and an extra heavy spring placed in there to account for the period of time--that is, the long period of time.

The button is simply used in setting the firing pin, which is held in place by a small sear until the delay period has elapsed, after which it falls and sets off this small cap.

This cap simply gives a little flash of flame, so that it is necessary to screw into this cap, which is threaded for it, a small detonator of the special type which I have previously exhibited or one of the special igniters.

This mechanism then could be used to initiate a high explosive charge or to set off an incendiary.

2 Q How would it be attached to the charge?

A The detonator simply screws into the mechanism. I can use one of the dummy detonators. This dummy detonator here simply screws into that cap (indicating), so that it is now assembled, and this can be placed right down in the hole in the demolition bomb.

Q And at the end of the period for which it is set the flash goes off?

A Yes, sir. The firing pin would fall, setting off this little cap, which would give a little flash of flame

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sufficient to set off this detonator. That in turn would initiate the high explosive.

Q How many were there?

A There were ten of these.

Q I think the Commission might be interested in seeing that.

A This is shown in detail in Photograph P-71.

The President. What do you call that in the profession?

The Witness. Simply a clockwork delay mechanism.

Questions by the Attorney General:

Q Somewhat like an alarm clock?

A Yes, sir. The fourteen days, of course, is unusually long, and longer than that of most clockworks, and for long delay periods the use of a mechanical device rather than a chemical mixture is desired. It has greater accuracy.

Major General Gasser. Is the operation of the mechanism audible?

The Witness. No, sir. It is very quiet. The sound is no more than that of a fine watch. It must be held closely to the ear. That is now running, if you care to listen to it.

The last photograph which I have is marked "P-57," and simply shows the wooden boxes in which the cans containing these explosive materials were contained.

Questions by the Attorney General:

Q Have you now described all of the photographs that were taken to identify this material and the material itself?

A Yes, sir, I have.

The Attorney General. Cross-examine.

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CROSS EXAMINATION

Questions by Colonel Royall:

Q Mr. Parsons, these various articles which you have described were in each instance harmless without combination with something else; is that right?

A Well, I would not say that the detonators are exactly harmless. If they are carefully handled and they were well protected in the wooden boxes, the principal risk would be in dropping them or giving them a sufficient jar to set them off.

Q Well, in the condition in which they were packed and stored, they were not dangerous to any person, were they, so long as they remained in that condition?

A I believe that is substantially correct.

Q And it would have taken some affirmative act to have made them dangerous, would it not?

A Yes. It would have been necessary to prime or place the detonators in the TNT to cause it to explode.

Q Now, Mr. Parsons, you spoke of finding in a box some miscellaneous articles consisting of some matches and cigarettes.

A Yes, sir.

Q What box were they in?

A They were in the cardboard box in which the pen and pencil sets were at the time that I examined the material.

Q Are these the ones you refer to (handing the witness some articles)?

A They are, sir.

Q There was not any uniform in that cardboard box,

6b

was there?

A No, sir, there was not.

Q So they were not in the pocket of a uniform?

A Not at the time I saw them.

Q Did you make any examination of those matches in any way?

A No, sir, I did not.

Q Did you see anything to indicate that they were anything other than ordinary matches?

A No, sir, I did not. I did not see anything to indicate that they were a part of thematerial that had been contained in these cans.

Q You made no examination of the matches?

A And I made no examination of those matches.

Q So far as you know, nobody else made any? You had them in your possession, did you not?

A Yes, sir.

Q Did anybody else make any investigation of these materials besides yourself?

A Not of the explosive materials. As to the investigation of the items, I can't say.

Q Now, it is not a fact that three of the boxes had double X's on them and one of them had one X? That is not correct, is it?

A No, that is not correct.

Colonel Royall. That is all we care to ask.

Colonel Ristine. No questions.

The President. Are there any questions by the Commission? There seem to be none. The witness is excused.

7b

The Attorney General. Now, Mr. Lanman.

Lieutenant Page. This witness has been sworn as to secrecy.

Colonel Munson. The witness is reminded that he is still under oath.

3 CHARLES F. LANMAN

was recalled as a witness for the prosecution and testified further as follows:

DIRECT EXAMINATION

Questions by the Attorney General:

Q Mr. Lanman, you have been sworn already and testified you were Special Agent of the FBI. Do you know the defendant Burger?

A Yes, sir.

Q Will you identify him? Point him out.

A This gentleman right here (indicating).

The Attorney General. Stand up, please.

(One of the accused stood.)

The Attorney General. Very good. Sit down.

Questions by the Attorney General:

Q Did you apprehend him?

A Yes, sir.

Q On what day?

A On the 20th of June, at about 5 o'clock in the afternoon, at the Governor Clinton Hotel, together with Assistant Director E. J. Connelley and Special Agent D. B. Rice.

Q Governor Clinton Hotel, New York?

A Governor Clinton Hotel, New York City. Pardon me, sir.

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The Attorney General. Mark these for identification.

(Various documents were marked P-73 through P-75, respectively.)

Questions by the Attorney General:

Q I show you what is marked for identification "P-73," which appears to be signed. Who signed it? Were you there when it was signed?

A Yes, sir, I was present. That is signed by Ernest Peter Burger.

Q He signed it in your presence?

A He signed it in my presence, yes, sir.

Q What is that?

A That is a consent to remain under the continuous physical supervision of the Special Agents of the Federal Bureau of Investigation.

Q I show you P-74 and I ask you if that was signed by Burger in your presence.

A Yes, sir, it was.

Q What is it?

Colonel Royall. The paper speaks for itself.

The Attorney General. If you want to take time to read them, all right.

Questions by the Attorney General:

Q That was signed by Burger in your presence?

A Yes, sir.

Q Please read it.

Colonel Royall. As I understand the rules of the Court Martial Manual and the ordinary civil rules, as to anything in the nature of either a confession or admission, the circumstances

9b

under which they were obtained must be developed by the prosecution before it appears whether or not it is competent. We therefore think we are privileged to ask the prosecution to ask this witness that, or, if they do not so desire, we are privileged to ask him the circumstances under which these papers were signed, before they are admitted into evidence.

The Attorney General. May it please the Commission, I have already asked the witness whether he apprehended Burger. If I were making an offer of proof, I would offer them to show that he signed a waiver of arrest, removal, and search, and that is the only purpose for which they are offered. It seems to me that the only circumstance to show is that he was arrested. I do not mind counsel for the defense asking any preliminary questions before they are offered.

Questions by Colonel Royall:

Q Mr. Lanman, you apprehended him on the 20th day of June?

A Yes, sir, that is right.

Q At what time of the day?

A Approximately 5 o'clock in the evening.

Q At what time was this Exhibit 73 signed?

A This was obtained from Burger about one hour after we returned with him to the New York office.

Q How long had he been in the New York office?

A About one hour. As soon as we got back to the New York office and we were able to obtain the form, we got him to sign.

Q How long had you apprehended him before you went to the New York office?

A Just long enough to make arrangements to pack the things up in his room and remove him from the hotel to the office.

Q What happened in that hour while he was there before he signed this?

A At the office? We were waiting to make arrangements, trying to get the forms. I obtained that form as quickly as possible, had him fill it out. He read it and signed it, after which I witnesses the signature.

Q Who was present?

A These other gentlemen that signed it and Agent Pettygrove.

Q Were you talking to him in an effort to get him to sign it?

A No, sir, I did not. I did not talk to him about that until that paper was obtained and he was given the paper to read and sign.

Q What did you talk to him about during that interval?

A During that interval I did not discuss a thing with him.

Q Did the others?

A No, sir.

Q Were you there?

A I was there all during that time, yes, sir.

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Q Now, the papers, P-74 and P-75, are dated June 22.

A That is right. They were taken at later dates.

Colonel Royall. Are you going to offer them all?

The Attorney General. We will offer them one after the other.

REDIRECT EXAMINATION

Questions by the Attorney General:

Q What is Exhibit P-73?

A This is a consent to remain in continuous custody of the Federal Bureau of Investigation.

The Attorney General. Counsel for the defense says he does not require it read, so I shall offer it in evidence.

Colonel Royall. If you will indulge me for just a moment, it may be that I can shorten this. I want to talk this over with my client. It may be that we shall not raise any question about it.

The Attorney General. I should like to have this spread on the record.

Colonel Royall. May it please the Commission, my first inquiry in this connection was largely due to the fact that I had not had an opportunity to discuss the particular matter with this defendant, not being aware that these were to be introduced at this time. After my conversation with him, we have no further objection or inquiry to make about any of these three papers.

(Exhibit P-73 was received in evidence.)

Questions by the Attorney General:

Q Exhibit P-74 is what?

A A waiver of removal from one judicial district to another.

o2

Q Signed by Burger?

A Signed by Burger and witnessed by me.

The Attorney General. I offer Exhibit P-74 in evidence and ask that it be spread upon the record.

(Exhibit P-74 was received in evidence.)

Questions by the Attorney General:

Q Exhibit P-75 is what?

A A consent to search.

Q Signed by the defendant?

A Signed by the defendant and witnessed by me.

The Attorney General. I offer that in evidence and ask that it be spread upon the record.

(Exhibit P-75 was received in evidence.)

Questions by the Attorney General:

Q Did you make a search of the defendant Burger's room at the Hotel Governor Clinton?

A Search of the defendant Burger's room at the Hotel Governor Clinton was conducted by other agents; I was not present during the search.

Colonel Royall. May it please the Commission, we think we would like one of those papers read; in fact, we would like to have two of them read, P-73 and P-74.

The Attorney General. Counsel asks me to read these exhibits. With the permission of the Commission, I will do so. Exhibit P-73 is as follows:

"Federal Bureau of Investigation

"United States Department of Justice.

"June 20, 1942

"New York City, N.Y.

03

"I, Ernest Peter Burger do hereby consent to remain under the continuous physical supervision of the Special Agents of the Federal Bureau of Investigation, U.S. Department of Justice, without immediate arraignment, and at such place as may be designated by the said Agents, while information furnished or to be furnished by me regarding any violation of the laws of the United States is being verified.

"This I regard solely as a step necessary for my protection during the progress of this investigation and my consent to this arrangement is, therefore, freely given by me without fear of threat or pomise of reward. It is, however, not to be construed as an admission of guilt on my part.

"The foregoing having been read by me and having been to be a true and exact representation of my voluntary decision in the matter, of my own free will I herewith affix my signature in approval thereof.

(Sgd.) "Ernest Peter Burger.

"WITNESS

(Sgd.)"P. E. Pettygrove"--

Question by the Attorney General:

Q Is that it?

A That is right, sir.

The Attorney General. (Continuing reading:)

(Sgd.) "C. F. Lanman,
"Special Agent, F. B. I.
"U.S. Dept. of Justice."

Exhibit P-74 reads as follows:

04

"N.Y. N.Y. June 22, 1942.

"I, Ernest Peter Burger, having been first fully informed by C. F. Lanman, Special Agent of the Federal Bureau of Investigation of the Department of Justice, that I have the right not to be removed from the Judicial District in which I was taken into custody without being first arraigned before a duly authorized judicial officer or magistrate and except by virtue of a warrant of removal issued for that purpose, do hereby waive my right to be arraigned before a duly authorized judicial officer or magistrate and my right not to be removed from the said judicial district except by virtue of a warrant of removal issued for that purpose, and do hereby freely consent and agree that I may be forthwith removed by representatives of the Department of Justice in their discretion to any judicial district of the United States, either for the purpose of questioning or for the purpose of being held to answer any criminal charge.

"I am executing this waiver and consent of my own free will, and without any pressure, compulsion or coercion of any kind whatsoever.

"The foregoing document was read to me before I signed it, and I fully understand its meaning and purport.

(Sgd.) "Ernest Peter Burger

"Witnesses:

(Sgd.) C. F. Lanman

(Sgd.) R. L. Johnson."

The third one is Exhibit P-75. It reads as follows:

05

"New York, N.Y.

"June 22, 1942

"I, Ernest Peter Burger, hereby authorize D. B. Rice, and J. M. Jones,"--

Question by the Attorney General:

Q Is that right?

A That is right.

The Attorney General (continuing reading):

"Special Agents of the Federal Bureau of Investigation, United States Department of Justice, to conduct a complete search of my residence located at Room 1421 Governor Clinton Hotel. These agents are authorized by me to take from my residence any letters, papers, materials or other property which they may desire.

"This written permission is being given by me to the above named Special Agents voluntarily and without threats or promises of any kind.

"(SIGNED)

"Ernest Peter Burger

"WITNESSES:

(Sgd.) "C. F. Lanman

(Sgd.) "R. L. Johnson."

With the permission of the Commission, I shall now withdraw this witness and put on another witness, to whom the waiver of search was directed.

The President. Is there any further questioning on your part?

The Attorney General. I am going to put him back on the stand.

o6

Colonel Royall. We wanted to examine him on this feature, but we can defer it.

The President. The witness may be excused.

The Attorney General. Is Mr. Rice here?

Lieutenant Page. This witness has not been sworn as to secrecy.

Colonel Munson. Mr. Rice, you understand that you will take two oaths in this case, one as to secrecy about what transpires in the courtroom, and that the violation of the terms of that oath may be punishable by contempt proceedings or other proceedings, the other oath being your oath as a witness. That is understood by you, sir?

Mr. Rice. Yes.

Colonel Munson. Will you please raise your right hand while I administer the oath of secrecy?

Mr. Rice. Yes.

Colonel Munson. Do you solemnly swear that you will not divulge the proceedings taken in this trial to anyone outside the courtroom until released from your obligation by proper authority or are required so to do by proper authority?

Mr. Rice. I do.

Colonel Munson. Do you swear that the evidence you shall give in the case now on hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Rice. I do.

B. DOWNEY RICE

a witness for the prosecution, was called as a witness and testified as follows:

o7

Question by Colonel Munson:

Q Will you please state your name, residence or office address, and occupation?

A B. Downey Rice, Special Agent, Federal Bureau of Investigation, New York Field Office.

DIRECT EXAMINATION

Questions by the Attorney General:

Q Mr. Rice, do you know the defendant Burger?

A I do.

Q Will you identify him?

A I beg your pardon?

Q Will you identify him if he is in court?

A He is the gentleman with the red tie, sitting between the two officers.

The Attorney General. Will you stand up, please?

(The defendant Burger rose.)

Questions by the Attorney General:

Q As the result of the waiver of search which is now in evidence, addressed to you, did you search the room of the defendant Burger in the Governor Clinton Hotel?

A I did.

Q What was the number of the room?

A Room 1421.

Q Who was present when you made the search?

A Assistant Director E. J. Connelley, of the Federal Bureau of Investigation. The Special Agents were C. F. Lanman, J. M. Jones, and A. F. Spigner.

Q Was the defendant present with you when you made the search?

A Burger was there.

Q Anyone else?

A No, sir.

Q When was it made?

A The search was made on June 20, 1942.

The Attorney General. I will ask to have these exhibits marked in sequence.

(Articles were marked as Exhibits P-76, P-77 and P-77A, P-78A and P-78B, and P-79, for identification.)

Questions by the Attorney General:

Q I show you, Mr. Parsons, Exhibit P-76. The exhibit is a wallet, to which the photograph of the wallet has been attached, it being identified by the marking on the photograph, and I ask you whether you can identify it.

A Yes, sir, I have my initials on it. This is the billfold that Burger had in his possession at the time he was arrested in Room 1421 at the Governor Clinton Hotel. It had $83 in United States currency in the billfold, together with other cards.

Q I take it you removed the currency and turned it over to the--

A No, sir.

Colonel Royall. May it please the Commission, we move to strike out the previous answer because it is not responsive to the question. We further object to these exhibits--at least, we want time to inspect them before we determine whether or not we shall object. It appears from the testimony of the witness that the search was made on the 20th of June and that the waiver was dated on the 22nd.

The Attorney General. That is right.

The Witness. Might I say, sir,--

09 Colonel Royall. No, sir, you were not asked any questions by me, sir.

The President. What is before the Commission?

Colonel Royall. We object to the testimony about these exhibits, sir, because it appears from the testimony that the search was made on the 20th and that the waiver was obtained on the 22nd of June.

The Attorney General. What difference does it make?

Colonel Royall. It makes considerable difference, I think, because the waiver does not purport to be for a past search, as I heard it read. It does not purport to cover a past search.

The Attorney General. May it please the Commission, waivers, of course, are unnecessary in any instance. I put them in so as to show the whole proceeding and the due process throughout this entire thing. Obviously it seems to me that the waiver covers a general waiver of search, but in any event I think that the waiver has no significance when the witness testified, in response to my question, that he got the wallet from the defendant Burger. That is the only thing he was asked. That is the question that is objected to. I can see no reason for not admitting it.

Colonel Royall. May it please the Commission, I think the record will show that the Attorney General asked the witness if he searched Burger and the room. He did not have any right to search him without a waiver or without some warrant providing for it.

It may be that if I can find out what these exhibits are-- I have not had an opportunity to ask my client--

The President. Yes.

o10 Colonel Royall. It may be that we will not have any objection.

The President. We will give you time to look into it. The Commission will take a five minute recess while counsel are determining their line of action.

(At this time a short recess was taken. The following then occurred:)

The President. The Commission will reopen.

Colonel Munson. May the record show that all the personnel of the Commission, of the prosecution, and of the defense who were present prior to the recess are again present, and also that the accused and the reporter are present. The witness is reminded that he is still under oath.

Colonel Royall. May it please the Commission: Upon further thought and study of the practical effect of this evidence, we feel that representing as we do all these defendants except one and not merely the defendant Burger, it is our duty to insist upon what we believe to be a valid objection to this testimony and these exhibits that are offered.

Without seeking to argue it at any length, our position is that the Constitution of the United States contains a guarantee against unlawful search and seizure, and we think that that law is applicable to any tribunal; but whether or not it is, it was certainly applicable to the F.B.I. at the time of this search and seizure. As we understand the opinions of the Court--although there are some only recently that modify the question to some extent--we believe that the evidence which is obtained by an unlawful search and seizure is

o11

not admissible in any court. We think that that is the ruling of all Courts, so far as we know, particularly in the case of actual search of premises or quarters.

The evidence at this time discloses that without warrant authorizing a search--none has been offered--and without a waiver, because the waiver was obtained two days later, on the 20th day of June a search, according to the witness, was made of these premises; therefore, whatever was obtained, we contend, was obtained by an unlawful search and is not admissible in evidence.

We, therefore, object on the grounds which I have stated to the Commission.

The Attorney General. May I ask the witness a question before the Commission rules?

The President. Yes.

Question by the Attorney General:

Q Mr. Rice, did the defendant Burger at any time while you were with him make any objection to your searching him?

A No, sir.

Brigadier General Henry. To searching him or his room?

Question by the Attorney General:

Q At any time while you were conducting the search for what you found on him or in his room, did he make any objection to your searching either him or the premises?

A No, sir.

Colonel Royall. May it please the Commission, that is a new fact that is brought up. We do not think that changes the rule. We conceive that mere failure to object does not dispense with the constitutional requirement of either a warrant or a waiver.

o12

The Attorney General. I do not think that the point is worth arguing. I know of no constitutional right which prevents a duly designated agent of the F.B.I., which is the proper service of the Government, from searching a defendant with the defendant's permission, after the description of what had taken place beforehand--in other words, the seizure of the material on the coast. This man was then apprehended and searched.

It seems to me that the search was perfectly legal. I know of no constitutional right against the search. It would be like saying that when you arrested a man in the midst of his committing a crime, you could not search him afterward.

Colonel Dowell. I should like to ask a question, if the Commission please.

Question by Colonel Dowell:

Q How positive are you that Burger was present when search was made?

A I was with the arresting party, sir.

Q Answer the question, please.

A Well, I am quite positive.

The President. Are there any other remarks?

Colonel Ristine, are you interested in this?

Colonel Ristine. No, sir.

The President. No, you are not.

Is there anything from the Commission?

(There was no response.)

The President. The Commission will be closed.

(The Commission was then closed. When it reopened, the following occurred:)

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3:50

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Wilfong
fls Attig
3:50

The President. The Commission is open. The Commission desires to ask several questions of the witness.

Questions by the President:

Q Where did you arrest Burger?

A In room 1421 at the Governor Clinton Hotel.

Q Why did you arrest Burger?

A Based on the order I received from Assistant Director E. J. Connelley, I went with the arresting agents into the room. Of course I knew at the time that Burger was suspected of being engaged in a sabotage party that landed in this country, and that the party had brought with them explosives.

Colonel Royall. If it please the Commission, I think it is appropriate for us to move to strike out the latter part of the witness' answer as not being responsive to the question propounded to him.

The Attorney General. Will the Commission hear me on that?

The President. Yes.

The Attorney General. The question of the President was, Why did you arrest Burger? The answer was that he was a suspected saboteur, and that therefore it was his duty to arrest him as a suspected saboteur. It does not seem to me that anybody would argue that a search warrant was necessary under those circumstances. In other words, that is certainly reasonable ground for his arrest.

The President. Have you anything to say on the motion to strike out part of the answer? That was the motion of the defense counsel.

The Attorney General. I have to say that the motion was made on the ground that the answer was not responsive,

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and I think I have said that the answer seemed to me to be completely responsive to the question as to why he arrested Burger. He said he arrested him, first, because he had orders. That was not objected to. Secondly, that he was a suspected saboteur, and therefore he arrested him. I understand that that was the answer.

Questions by the President:

Q Did you search Burger's room at the time of the arrest, or later?

A I searched it both in his presence and later. That is, the search was continuous. He was taken to the office shortly after his arrest and I remained to make a thorough search of the room.

The President. Have you anything further to state?

Colonel Royall. May I ask the witness a question?

The President. Yes.

Questions by Colonel Royall:

Q Upon which search did you find the articles which are now being objected to?

A That search was while Burger was still in the room.

Q You discovered all of them at that time?

A There has only been one article offered to me as yet, sir.

Q You say you found that when he was in the room?

A Yes, sir.

The President. Subject to objections from any member of the Commission, the objections of the defense counsel are not sustained.

Colonel Royall. May it please the Commission, that applies both to the objection to the exhibit and the motion to

3w

strike?

The President. Yes.

The Attorney General. May I proceed?

The President. Proceed.

Questions by the Attorney General:

Q I now show you Prosecution Exhibit 76. Did you take this from Burger?

A Yes, sir; I did.

Q That was a bill-fold?

A Yes, sir.

Q What did you find in the bill-fold?

A The bill-fold contained $83 in United States currency, and several cards.

Colonel Royall. May it please the Commission, in order not to waive our rights we object also to that question. There will probably be the same ruling, but I assume that we have to object unless there is some agreement that the objection should apply.

The Attorney General. May we make an agreement that the objection, without its being restated, will apply to questions asked with reference to what was taken from the defendant Burger?

Colonel Royall. On the occasion of his presence?

The Attorney General. Yes; on the occasion of his presence.

Colonel Royall. And the Commission I assume rules against us the same way?

The President. The Commission so rules.

Questions by the Attorney General:

Q You took $83 from the bill-fold. Did you get a

4w receipt from Burger for it?

A No, sir. I placed the $83 back in the bill-fold and placed the bill-fold in an envelope of the Governor Clinton Hotel, sealed it and had Burger write his initials across the flap of the envelope, together with the amount of the money.

Q I show you Exhibit P-81 and ask you if that is the envelope to which you refer?

A Yes, sir.

Q With Burger's name on it?

A Yes, sir.

Q You said you found cards in that bill-fold. I show you Exhibit P-78, the photographs of this exhibit being P-78A and P-78B, showing the two sides of the card, and ask you if that card is the exhibit that was found in that bill-fold?

A I cannot say that, sir, inasmuch as I removed the money and placed it back with the cards and sealed the envelope, to be taken to the office for examining more thoroughly later.

Q You cannot identify this card?

A No, sir. I know there were several cards in there, but I did not inspect each of them.

Q Were they put back into this envelope and sent back?

A They were never removed from the wallet. The wallet was placed in the envelope with the money.

Q Do you identify Exhibit P-77?

A No, sir.

Q Did you take anything off Burger when you searched him, except what you have described?

A No, sir.

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Q Did you find anything in Burger's room when you searched the room?

A Yes, sir.

Q When was it you searched the room? Was Burger present when you searched the room?

A Yes, sir; he was.

Q What did you find in the room?

A His luggage was in the room, and in one of the suit-cases there was a money-belt.

Q I show you Exhibit P-80. Is this the suit-case in which the money-belt was found?

A Yes, sir.

The Attorney General. I will offer the photograph when it comes.

Questions by the Attorney General:

Q What did you find in the suit-case?

A There was clothing in the suit-case and a money-belt.

Q I show you Exhibit P-79, already marked for identification, and ask you whether this is the money-belt you found in that suit-case?

A Yes, sir; it is.

Q Did you open the money-belt?

A I counted the money that was in it.

Q How much was that?

A There were 71 50-dollar bills, amounting to $3,550.

Q What did you do with that money?

A That money was also placed in an envelope of the Governor Clinton Hotel, sealed, and Burger placed his initials

6w on there, his autographic signature.

Q I show you Exhibit P-82, being an envelope, and ask you whether or not this is the envelope to which you have referred, containing the 71 fifty-dollar bills, on which Burger put his signature and which you sealed up?

A Yes, sir.

Q To whom did you turn over the two sealed envelopes?

A To Special Agent C. F. Lanman.

Q Did you find anything else in the room when you searched, belonging to Burger?

A Yes, sir.

Colonel Royall. This is the same search to which you are referring?

Questions by the Attorney General:

Q This is the same search, I take it?

A Yes, sir. There were various articles of personal effects, such as clothing, a Leica camera and a General Electric exposure meter. There was also another piece of luggage.

Q There was another piece of luggage in the room?

A Yes, sir.

The Attorney General. I will ask the reporter to mark this suit-case P-83, and also this photograph.

(Suit-case and photograph thereof were marked P-83 for identification.)

Questions by the Attorney General:

Q What did you do with the second bag, the smaller of the two?

A The second bag I identified and removed to the New York office of the FBI.

Q To whom did you give it?

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A I took it down there myself, and it has been kept in the file of the Bureau since.

The Attorney General. I now offer in evidence Exhibits P-81 and P-82, which are the two envelopes, Exhibit P-76, which is the wallet, and Exhibit P-79 which is the money-belt, and ask that the accompanying photographs be made a part of the record.

Colonel Royall. I understand that our objection applies to this and that the Commission has overruled it. There is no objection to the substitution of the photographs for the physical exhibits.

(The two envelopes marked P-81 and P-82, the wallet marked P-76, and the money-belt marked P-79, were received in evidance.)

The Attorney General. You may cross examine.

CROSS EXAMINATION

Questions by Colonel Royall:

Q You are quite certain that Mr. Lanman was present at the time of this search?

A He was present at the time the search was made, or very near by, possibly calling for a car. He possibly stepped out of the room a few moments.

Q You first said he was there, without qualification, did you not?

A I do not think so, sir. Agent Lanman was there at the time we made the arrest, and he remained in the room the greater part of the time.

Q Do you recall whether about 10 minutes ago in your examination you said definitely that he was there when the search was made?

A I recall saying that Burger was there during the

8w search.

Q Do you recall whether or not you said Mr. Lanman was there?

A I don't recall saying anything about Special Agent Lanman except that he was part of the arresting party.

Q That is your best recollection of what you testified to?

A Yes, sir.

Q Mr. Rice, you stated that you made some search after Mr. Burger left?

A That is correct.

Q What sort of a search did you make then?

A It consisted of very thoroughly checking the room and the bath room connected for any material that might have been hidden there, and gathering up the effects that Burger left there.

Q Did you look through his clothes at that time?

A His clothing was placed in his luggage and taken down to the office for very thorough examination.

Q I ask you again, Did you look through his clothing at the time of the search which was made after he left the room?

A Yes,sir; I looked through his clothing.

Q What did you find in it?

A There were several boxes of matches.

Q Where are they?

A They are in the exhibit file of the Federal Bureau of Investigation.

Q Not here in court?

A It is possible they are here in court.

9w

Q You do not know whether they are or not?

A No, sir; I do not.

Q What else did you find?

A In his clothing?

Q Yes.

A Outside of handkerchiefs, I cannot think of anything.

Q Did you make a list of what you found in the two searches, and what you found on the first search and what you found on the second search?

A I made no distinction between the searches. It was all part of one search, and all of the articles found were listed.

Q Do you now make a distinction between what you found when he was there and what you found when he was not there?

A No, sir.

Q Do you know what you found when he was there and what you found when he was not there?

A Yes, sir.

Q Are you certain that all these articles were found when he was there?

A These articles that have been offered?

Q Yes.

A Yes, sir.

Q Mr. Rice, you found no firearms of any kind, did you?

A No, sir.

Q No weapons of any kind--not even a pocket-knife, did you?

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A I think there was a small pocket-knife.

Q You said you made a list of what was found. Where is that list?

A I made a report of it, which is in the file of the Federal Bureau of Investigation.

Q Where is that report?

A In the possession of the Federal Bureau of Investigation.

Q You do not have a copy of it here?

A Not with me; no, sir.

Q Have you got one anywhere?

A No, sir; I do not have, myself.

Q You say you think you found a pocket-knife. Are you certain about that?

A To my best recollection, there was a small pocket-knife.

Q Did you make any inquiry of anybody--do not tell me what was said--as to who that small suit-case belonged to?

A Yes, sir.

Q Of whom did you inquire?

A I inquired of Burger.

Colonel Royall. May I ask the Attorney General a question? Would it be possible for me to get a copy of his report for the purpose of cross examination?

The Attorney General. It is not customary for us to give confidential files to opposing counsel for the purpose of cross-examination. It is not in evidence. It is not a statement. I will send for the file and look at it and determine whether or not I can give it to counsel, with the President's

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permission. We do not usually give away our private reports to counsel for the purpose of cross examination. But I will send for it now and glance over it and determine whether or not the Commission thinks it should be given to counsel.

Colonel Royall. The only thing I want about the report, and this could not be very confidential, since the witness has been examined about it, is that part of the report which lists what he found and indicates, if it does indicate, on which search he found it.

The Attorney General. I am told that the report is in New York, and it will take us a little while to get it here; but I will send for it tonight.

Have you finished?

Colonel Royall. Colonel Ristine may desire to ask a few questions.

Cinci fls
4:20 p m

Cinci
fls
Wilfong
4:20 pm

The President. Are you through with the witness, Mr. Attorney General?

The Attorney General. No, I am not.

The President. This is, I take it, a little bit out of order, as far as your questions are concerned?

The Attorney General. Colonel Royall I think had been cross-examining the witness and wishes his associate, Colonel Ristine, to have an opportunity to examine him.

The President. You have finished, have you?

Colonel Royall. I have finished my cross-examination, subject to requesting the Commission opportunity for further cross-examination whenever this report is available.

The President. Colonel Ristine.

CROSS EXAMINATION

Questions by Colonel Ristine:

Q Did you find any letters in the room or on the person of Mr. Burger?

A There was a letter in the room.

Q Do you know what was done with that letter?

A Yes, sir.

Q Is it in the courtroom now?

A I couldn't say whether it is in the courtroom. We retained the letter.

Colonel Ristine. Could I see the letter?

The Attorney General. No, we will not permit you to see the letter, unless directed by the Commission. In other words, may it please the Commission, we are presenting our own case and are putting on our own evidence, and we do not propose, unless you otherwise direct us, to produce defendant's evidence

2b

at this time. I think they can produce their own case in whatever way they want.

Colonel Ristine. I might state the reason for the inquiry. I understood that my client--

The Attorney General. Wait a moment. With the permission of the Commission, I object to any reason being stated with respect to an inquiry bearing on evidence that I state will not be produced unless I am directed to produce it. I object to any reason being given.

Colonel Ristine. May I suggest that it would probably be wise for the Commission to know why I make inquiry about a document in order to determine its relevancy in the proceeding, and particularly as it may have to do with my client?

The Attorney General. I cannot see that any reason for introducing evidence belonging to the defendant during the case of the prosecution is in any way relevant. This seems to me to be a fishing expedition, to ask the prosecution to produce evidence that the defendant desires.

Now, counsel has appropriate manner of forcing any evidence he likes at the appropriate time. I know about this case, and I have reasons for objecting to any explanation given by Colonel Ristine with respect to his desire to produce the letter.

Colonel Ristine. May I state to the Commission that, of course, except for the shortness of time which I had to investigate this matter, I might have served written notice on the Attorney General requesting that certain documents be produced for my inspection, but the shortness of time has been such that I have not had an opportunity to produce those documents.

3b

The Attorney General. I may say now to Colonel Ristine that, had you written me a letter requesting me to produce the letter, I would not have produced it. This is the prosecution's case. I am submitting my evidence, and I do not see that Colonel Ristine should address any remarks in connection with evidence which he desires which is not part of my case, and which I have reasons, unnecessary to state to the Commission, for not wanting that letter produced.

The President. If there is no objection on the part of any member of the Commission, the motion of the Attorney General is sustained for the present.

Colonel Dowell. May I be permitted one further question?

CROSS-EXAMINATION

Questions by Colonel Dowell:

Q Please state again the names of the ones that were present during the arrest of Burger besides yourself and the ones who were present during the investigation during the search.

A Present were Assistant Director E. J. Connelley, of the Federal Bureau of Investigation, Special Agents C. F. Lanman, J. M. Jones, and A. F. Spigner.

Q What is Spigner's first name?

A A. F. -- A.Fletcher.

Q Jones' full name was what?

A J. M. Jones.

Colonel Dowell. That is all I have.

REDIRECT EXAMINATION

Questions by the Attorney General:

Q Now, Colonel Royall asked you whether or not you

4b

found anything else in the room, and you said that you found another suitcase. That has been identified as P-83. This (indicating) is the case, is it not?

A Yes, sir.

Q Colonel Royall asked you whether or not you asked Burger whose suitcase it was.

Colonel Royall. That is not quite right, but it is practically right.

The Attorney General. Well, substantially so.

Questions by the Attorney General:

Q What did Burger say to you with respect to the ownership of this suitcase?

A Burger said that that suitcase was the property of George John Dasch, whose initials are on it, and that it was brought into this country when they landed from the submarine.

The Attorney General. That is all.

With the permission of the Commission, Lanman has already been called, he is in court, and I think I could finish his testimony quite promptly, if the Commission will permit me to.

Colonel Royall. We have some cross-examination of Lanman. I am afraid it would take possibly longer than the Attorney General thinks.

The Attorney General. Could we start and see how we proceed? There have been so many delays today that I would like to proceed.

The President. Proceed.

The Attorney General. Mr. Lanman.

5b

CHARLES F. LANMAN

was recalled as a witness for the prosecution and testified further as follows:

Colonel Munson. Mr. Lanman, you are reminded you are still under oath.

The Witness. Yes, sir.

DIRECT EXAMINATION

Questions by the Attorney General:

Q Mr. Lanman, it has been testified that these two envelopes that are marked 81 and 82 were sealed. Do you recognize them (handing documents to the witness)?

A Yes, sir, I do.

Q Were they delivered to you?

A Yes.

Q What was in 81?

A Now, exactly the contents of this envelope--I was told, and it was marked on the outside, that there was 83 dollars in bills.

Q Did you open the envelope?

A No, sir.

Q Did you open this envelope (indicating)?

A No, sir, I did not.

Q Did you open the wallet that was delivered to you?

A Later, yes; not at the time it was recovered, but afterwards at the office.

Q Will you identify the wallet?

A Yes, sir.

Q I show you the exhibit which is No. 76 and ask you if that is the wallet that was delivered to you (handing an

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article to the witness).

A Yes, sir.

Q Did you open it?

A Yes, I did.

Q What did you find in it?

A I found the Social Security card and a certificate of draft registration card.

Q Just a minute. I show you P-77 and 77-A and ask you whether or not--

Colonel Royall. May it please the Commission--

The Attorney General. I have not identified it yet.

Colonel Royall. This is evidence which was taken at the search, which we objected to. I just wanted to make certain that the stipulation covers this inquiry also.

The Attorney General. The stipulation covers this evidence as well as the former evidence.

The President. I understand that is made on the record.

Questions by the Attorney General:

Q Is this the Social Security card (handing an article to the witness)?

A Yes, sir, that is.

Q With an accompanying photograph?

A With an accompanying photograph, yes, sir.

Q What else did you find in the wallet?

A The registration certification in the draft made out to Ernest P. Burger.

Q I show you Exhibit 78, being A and B, and ask you whether that is the registration card found in the wallet (handing documents to the witness).

A Yes, sir, it is. I have placed my initials on there.

3 The Attorney General. I now offer in evidence these two exhibits, being 77 and 78, and I should like to have placed on the record the accompanying photographs, also marked for identification, of both sides of these two cards.

(Prosecution's Exhibits 77 and 78 were received in evidence.)

Questions by the Attorney General:

Q Did you show these to Burger at any time?

A Yes, sir, I did.

Q When?

A At the office. I believe it was the 23rd. I made a notation of the date on the card and my initials when I showed them to him.

Q Will you take out the Social Security card from its wrapper? I would like you to read that to the Commission.

A Social Security Act, Account No. 283-05-7246 has been established for Earnest Peter Burger, 11-30-36.

On the reverse side of this card is a notation, "Keep this card. It shows the account number used in keeping records of your Social Security benefit rights under Federal and state laws. Keep a record of this number, as you might lose the card. Mention the number in all letters regarding your account.

"Address inquiries concerning Unemployment Compensation (if there is a law in your State) to the State Agency administering such law. Address inquiries concerning Federal Old-Age Retirement Benefits (not state Old-Age Assistance-or-Pensions) to the nearest office of the Social Security Board. Sign this

8b

card immediately and report the number to your employer."

My initials are in the lower right-hand corner, with the date.

Q Those are your initials on the card?

A Yes, sir.

Q What did Burger say about the card?

Colonel Royall. Before any statements of Burger which might be in the nature of an admission or confession are made, we again desire to examine the witness as to the circumstances in which they were made. That is what I had in mind when I said it might take time to do so.

The Attorney General. Well, suppose I identify the other card in the same manner, and then we will come to that.

Questions by the Attorney General:

Q Now, I show you the registration certificate, which has been already offered in evidence, and ask you if that is the one you took out of the wallet (handing a document to the witness).

A Yes, sir, it is.

Q Will you take it out and read it?

A I took this card out and exhibited it to Burger. I put my initials in the corner and dated it. It says:

"Registration Certificate. This is to certify that in accordance with the Selective Service Proclamation of the President of the United States," and in ink, "Ernest P. Burger, 1243 East Jefferson Avenue, Detroit, Michigan, has been duly registered this 16th day of October, 1940."

Then the name below that, the signature of the registrar

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is--the first name I can't make out. The last name appears to be Frank, Registrar for Tenth Precinct, 15th Ward, City or County of Detroit, State of Michigan.

Below that it says:

"Be alert. Keep in touch with your local board. Notify local board immediately of change of address. Carry this card with you at all times,"

and the form number, D.S.S. Form 2.

In the lower right-hand corner, 16-17105.

In addition, there are my initials, New York City, June 23, 1942.

Q What is on the reverse?

A On the reverse side is a heading, "Description of Registrant," and under Race, White, there is an X-mark. Under Height, Approximate. Eyes, Gray, and after that an X-mark. Under the Weight, Approximate. Hair, Brown, with an X-mark after that. Under Complexion and under a sub-heading of Ruddy is an X-mark.

At the bottom: "Other obvious physical characteristics that will aid in identification," what appears to be the word "None," and below that is, "U. S. Government Printing Office, Form 16-17105."

Q Now, I turn the card over and ask you whether or not that is countersigned.

A This card is countersigned, Ernest P. Burger.

Q Do you know whether that is in Burger's handwriting?

4 A It was so stated to me by Burger.

Q That is his handwriting?

A That is his handwriting, yes, sir.

Q What information--now, do not answer until counsel has time to object--did Burger give you with respect to the Social Security card to which you have testified?

Colonel Royall. May it please the Commission, we desire to ask the witness the circumstances under which any statements were made by Burger and the circumstances leading up to it, in order to determine whether admissions or confessions, if they amount to such, were voluntary, as required by law.

The Attorney General. Well, I have no substantial objection. This is not a confession. It is an admission made by the defendant himself to the witness. I hardly think, therefore, that the objection is relevant to that, but I have no substantial objection to it. It is a little unusual to ask to cross-examine the man as to the circumstances under which a conversation took place, but it makes very little difference.

Colonel Royall. I understand the Attorney General does not object.

The Attorney General. No.

Colonel Royall. May I proceed?

Questions by Colonel Royall:

Q I believe you have testified that you saw Burger on the 20th of June.

A Yes, sir, that is correct.

Q When did these conversations about which you started to speak occur?

A They occurred several days later at the New York office, during which time we were questioning Burger.

Q Do you know what days?

A The particular case in reference was the 23rd.

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Q Where was Burger from the 20th to the 23rd?

A We were questioning Burger--

Q Where was he?

A At the New York office of the Federal Bureau of Investigation.

Q How was he confined during that period?

A Confined in a place provided by the office for himself and others that we had there.

Q Was he in a solitary cell?

A During the evening hours he was placed in a cell. During the daytime when we questioned him we brought him downstairs to one of the smaller offices.

Q How much sleep did he get during that time?

A Well, now, I can't say exactly how much sleep he got, because I wasn't in the cell with him. Sometimes it would be rather late in the evening. Other times we would turn him back to the room where we kept him during the night at a fairly early hour.

Q How late did he stay up on the night of the 20th?

A On the night of the 20th I believe we were together about six hours, going over the facts of the case.

Q Until how late at night?

A About 12:30 or 1:00 o'clock.

Q When did you start questioning him on the 21st?

A On the 20th, sir, when we brought him back to the office, shortly after we returned we started questioning him.

Q I say, when did you start on the 21st?

A On the 21st? That was on a Sunday and I can't recall exactly when it was. It was sometime around 2 in the

afternoon,I believe--1 or 2 o'clock in the afternoon.

Q How late did you question him that night?

A Possibly until about 8:30 or 9:00 o'clock.

Q How about the 22nd?

A The 22nd we started rather late in the morning, went through the afternoon and possibly around 8 or 9 that evening.

Q By that time he was pretty well physically exhausted?

A Whenever Burger made any statements to the effect that he was getting tired, we stopped.

Q You did that every time?

A Yes, sir.

Q You did that on the 23rd, too?

A Yes.

Q How many people questioned him?

A Mr. Fellner and myself were there most of the time. At the outset Mr. Rice was there, and due to something else that he had to do, Mr. Fellner came with me, because Mr.Fellner understood German, and Mr.Fellner was with us most of the time.

Colonel Royall. That is all.

Questions by the Attorney General:

Q Will you answer the question, if the stenographer will read it?

(The last question of the Attorney General was read.)

A Burger stated that this Social Security card was given to him in Berlin, Germany.

Q By whom?

A By, as I recall it now, Dasch, and that the card at the time was all filled out, typed out.

Q Did Burger then state to you whether Dasch was the leader of his group?

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A Yes, he did. He had told us, as I recall it, previous to that time that Dasch was the leader of his group.

Q Did he give you any other information about that card?

A He stated that he did not know definitely whether this card was made in Germany and had been typed over there or whether it had been brought to Germany from the United States.

5 Q Did he say whether or not he did actually register under this card?

A No. That particular question was not asked him with reference to this card.

Q Thatis the Social Security card?

A That is the Social Security card.

Q I beg your pardon. In reference to this card (indicating) did he say actually whether this was a Social Security card issued in the United States to him?

A No; he said this card was given to him in Germany.

Q With respect to the other card, the registration certificate, what did he say with respect to it? I think you have already said that he admitted having countersigned it.

A Yes.

Q Who gave it to him?

A This card was given to him first in blank and George Dasch filled it out.

Q Did he say what Dasch told him it was at the time it was filled out?

A It was a registration certificate for draft in the United States.

Q Did Burger say anything else that Dasch said to him

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with respect to the card when he gave it to him?

A Not that I recall.

Q Where did Dasch give him the card?

A This card was given to him in Berlin, Germany.

Q When?

A During the time of their departure from Berlin, from Paris and Lorient, where they left.

Q Do you remember the date?

A On which the card was given to him?

Q Yes.

A No, I do not.

Q Was the other card given to him at the same time this was given to him?

A At the same time.

Q Did you show Burger at any time articles of clothing?

A Yes, sir.

Q When did you show to him these articles of clothing?

A July 1st.

Q I show you Prosecution's Exhibit No. 22--

Colonel Royall. May it please the Commission, at this stage is this testimony and are these statements being offered only againstBurger? Is that correct?

The Attorney General. No, that is not correct. One of the charges here is a conspiracy charge. Of course, you have to prove your conspiracy piece by piece, but when you show that a conspiracy occurs and it is active, of course the confession or statement of any conspirator is evidence against the other conspirators. Therefore, this is being offered against Burger at this point, and when followed by other appropriate evidence

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will, of course, be admissible against the other defendants.

Colonel Royall. The statement made by the Attorney General is, of course, entirely correct as a matter of law, that under certain circumstances a declaration of one conspirator is competent as against another when there has been sufficient evidence to establish a conspiracy. It is impossible for me to anticipate whether that will be shown or when it will be shown, and therefore I would like, on behalf of the other defendants, to object to this further testimony. Up to this point it has not affected the others.

Attig
fls
4:50

Atg.
fls.
Cin.
4:45

In order to avoid repeated objections, if the Attorney General will agree, I should like to stipulate that the testimony of this witness as to declarations by Burger will be objected to by the other defendants.

The Attorney General. Very good; I agree to that.

Questions by the Attorney General:

Q I show you Exhibit P-22, which is a German marine cap. Did you show that to Burger?

A Yes, sir, I did.

Q What did he say about it?

A Burger said that this was the cap worn by him when the submarine put him ashore at Amagansett, Long Island. As a matter of fact, it was given to him when he was given the rest of the uniform.

Q Where was he given the uniform?

A He was given the uniform in Berlin, Germany.

Q When was he given the uniform in Berlin, Germany?

A No date as to when the uniform was given was told to us.

Q But in connection with these later activities of the defendant, as to when he was given the cap and uniform, was it before he went to Lorient or afterward or when?

A Before he went to Lorient.

Q Before he left Berlin?

A Before he left Berlin to go to Lorient.

Q Can you identify any ticket on that cap as being in his handwriting?

A In his handwriting, right here (indicating).

Q Would you read his handwriting?

A "This is the cap worn by me when I landed at

o2 Amagansett, Long Island, June 13, 1942." Signed "E. P. Burger" and initialed by me at New York City on July 1, 1942.

Q The signature is in Burger's handwriting?

A The signature is in Burger's handwriting.

Q Made in your presence?

A Made in mypresence, and my initials were placed on it at the same time.

Q Did you ask him with respect to any of the insignia on the cap?

A Yes, I did.

Q What did he say with respect to the insignia on the face of the cap which I show you?

A He said that that insignia was the insignia of the German Marine Infantry.

Q Which insignia there seemed to be put on the cap?

A This circle here with the red center and white circle.

Q The witness designates a small red circle with a white circle around it and a full circle around the white circle; is that right?

A Yes, sir.

Q Did he say anything about the insignia appearing above that in the form of an eagle?

A Merely that this was the usual symbol worn by the German Army or German Navy.

Q By the German Army or Navy?

A German symbol.

Q You are now designating the eagle with the swastika under it?

03 A That is right.

Q Did he say whether or not any of the other defendants had similar caps?

A He said they were all issued caps of this sort, but he was the only one who got his ashore.

Q Issued under the same circumstances?

A Issued under the same circumstances.

Q Did you show the witness Burger any other clothing?

A Yes, sir, I did.

Q I show you Exhibit P-34 and ask you whether you showed this exhibit or one of the other exhibits of trousers similar to this to him.

A I showed him several pairs of trousers, and he picked this pair of trousers out and identified that as those worn by him and as given to him at Berlin, Germany and worn by him when he landed at Amagansett, Long Island.

Q Was there a similar tag?

A A safety pin in the pants was the means of identification that he made, and the tag that was made out by Burger is this:

"One pair of pants--German Army--fatigue--identified as been worn by me when landing at Amagansett, L.I. June 13, '42, throu safety pin in waistband."

Signed "E. P. Burger, 7/1/42."

Q He signed that in your presence?

A Yes, sir.

Q Saying those were his own trousers?

A He stated those were his own trousers.

Q Issued to him at the same time as the cap?

04 A Issued to him at the same time as the cap.

Q I show you prosecution exhibit P-37 and ask you whether you showed this to Burger.

A We showed him all the coats we had in our possession. He stated that the only coat that had a belt on it in the group was his. We picked this coat up, and Burger said this was his coat and filled out a tag here, stating:

"Fatigue jacket worn by me when landing at Amagansett June 13, '42. Identified throu belt."

Signed "E. P. Burger, 7/1/42,"

and initialed by me.

Q He signed that in your presence?

A Yes, sir.

Q Did you show him any other parts of clothing?

A Yes, sir, I did.

Q I show you Exhibit P-35, which seems to be a coat already offered in evidence and ask you whether he identified this.

A Yes, sir.

Q Have you got his tag here?

A Yes, sir, his tag is on here--right here (indicating).

Q What does it say?

A This tag states:

"Coat carried by Heinck when landing at Amagansett, June 13, '42."

Signed, "E. P. Burger, 7/1/42."

Q What did he tell you about that coat?

A This coat was carried--

Q (Interposing) This is what Burger told you?

A This is what Burger told me. He said that this coat

was carried by one of the defendants, Heinck, when they landed on the beach at Amagansett. This coat was stretched out on the beach, and the contents of the sea bag which they brought with him were dumped on this particular coat.

Q That is what he told you?

A He stated that later, before leaving the beach, he left that coat on an upper bank--

Q (Interposing) Who left it?

A Burger--on the upper bank of the beach before they went up from the beach entirely.

Q I show you Exhibit P-24 and ask you whether this is another thing that you showed Burger.

A Yes, sir, it is.

Q It is the duffel bag?

A It certainly is.

Q Do you have an identifying mark on that?

A Yes, sir.

Q What did Burger say to you about that duffel bag?

A He identified this duffel bag as follows:

"Seabag identified by me as beeing same which was used to carry our civilian clothes from France to U.S. and carried by me at L.I. June 13, '42."

Signed, "E. P. Burger, 7/1/42."

Q Did he say whether or not it was issued at the same time his uniform was issued?

A This was given to them in Berlin, France at the same time.

Q Berlin where?

A Berlin, Germany, at the same time as the uniforms.

Q Did he say what was done with this duffel bag when

it was taken to the beach?

A Yes. This duffel bag after it was taken from the beach and the clothing in the bag was brought from the submarine and was gotten out--the bag was later given to Burger, according to his statement, to bury further back on the beach, and he stated that he buried this bag partially on the beach, leaving the top part of it exposed before he and his associates left the beach.

Q Did he tell you what was in the bag when he buried it?

A No, sir, he didn't.

Q Did he tell you what he had proposed to do with the bag?

A At the time it was on the beach, he dragged the bag across the beach to leave a mark on the beach, and that when he buried the bag in the back of the beach he proposed to leave it in such fashion that the bag would be easily found by anyone who might be searching for it.

Q Did you show him any other articles of clothes?

A Yes.

Q I show you a pair of boots, marked Exhibit P-33, and ask you if you showed him these.

A Yes, sir, I showed him these boots.

Q What did he say about them?

A He stated these were his, issued to him at the same time the uniform was issued to him in Berlin, Germany. He attached a card which reads:

> "One pair of German Army shoes worn by me when landing at Amagansett, L.I. June 13, '42. I was the only member of the group, who wore shoes of this type ashore."

o7 Signed, "E. P. Burger, 7/1/42."

Q I show you Exhibit P-41 and ask you whether this pair of woolen socks was shown to Burger.

A Yes, sir, they were.

Q Describe how he identified them.

A He identified these as being his. The tag states the following:

"One pair of socks worn by me when I landed at Amagansett, L.I. June 13, '42.

"I identify these socks as being mine because I was the only one of the group who took socks ashore with me."

Signed, "E. P. Burger, 7/1/42."

Q I show you Exhibit P-45, already offered in evidence, which is a piece of paper. It has already been introduced and translated. I ask you what Burger said with reference to this piece of paper that is marked as Exhibit P-45, the writing being in German and the translation having already been testified to.

A Burger stated that this was part of the bag--attached to the sea bag--and was coming off because of the salt water on it. He identifies it in the following manner:

"I identify this paper as part of the tag attached to the sea bag which we brought ashore from the submarine at Amagansett, L.I., June 13, 1942."

Signed, "E. P. Burger, 7/1/42."

Q Did he tell you what was on the complete bag, or did he describe it to you?

A No, he didn't; he was unable to do that.

o8 Q Nor did he know who put the tag on the sea bag?

A No, sir, he didn't.

Q I show you exhibits P-28 and P-29, they being two shovels, and I ask you whether or not you showed them to Burger. Here is P-28 (handing a shovel to the witness).

A Yes, sir. This was shown to Burger.

Q Is there any tag on this exhibit P-28?

A Not placed on there by Burger.

Q Do you recollect whether or not Burger made a statement with respect to this particular shovel, P-28, on which there is no tag?

A Not with reference to this particular shovel. As to both shovels at the same time he stated these were shovels used by him to bury the sea bag, and one shovel had been left in the ground--under the sand--with the sea bag, and the other one had been laid by him on the ground alongside the sea bag, where the top was protruding from the sand.

Q Did he say who had issued the shovels or given them out?

A These shovels were given to them on the submarine.

Q Did he say what individual gave them to him?

A No, I don't recall that he did.

Q I show you the other shovel, Exhibit P-29, and ask you whether or not he identified it.

A Yes, sir, he did. There is one tag here that states:

"Two shovels used to bury boxes and sea bag at beach of Amagansett, L.I., June 13, 1942. Left by me at sea bag."

Signed, "E. P. Burger."

Q I do not know whether or not I have asked you this

09 question: Did he say anything with respect to the uniforms worn by the other three defendants in his group when he showed you the uniform you have described?

A He was not able to identify any of the uniforms as being worn by a particular man, except that they were uniforms of the other members of the group, he believed.

The Attorney General. I ask that this series of photographs be identified by one numeral and that each photograph be marked with a separate letter.

(Series of photographs of physical exhibits were marked as Exhibits P-84A to J, inclusive.)

Questions by the Attorney General:

Q I show you a series of photographs which have been marked as Exhibits P-84A to P-84J, inclusive. These are photographs of the objects already introduced. I will ask you whether or not they are photographs of the objects to which you referred.

A Yes, sir.

Q Did you show them to Burger?

A Yes, sir.

Q Did he identify them by any handwriting on the photographs?

A He made notes--handwritten notes--on each of the photographs that he was able to identify and signed them.

Q Did he sign each photograph?

A Each one, yes, sir.

Q Did he date it?

A No, sir. They were dated by me when I initialed them.

Q Did you initial them when he signed them, or later?

o10 A Not at the moment, no, sir; later on.

Q Die he sign them in your presence?

A He signed them in my presence.

Q Did he sign them under the writing--the descriptive writing--indicating what the photographs represented?

A Yes, sir.

Q Will you go through the photographs very briefly and state the description on each photograph, which description was signed "E. P. Burger"?

A The first one, J, is:

"Spades used to bury boxes and sea sack on beach of Amagancette, L.I., June 13, 1942."

Q You are reading from the description?

A Put on there by Mr. Burger.

I is:

"Suits worn by one of group when landing at Amagancette, L.I., June 13, 1942. E. P. Burger."

H is:

"Sea sack, in which civilian clothes were carried from submarine to shore at Amagancette, L.I., June 13, 1942. E. P. Burger."

G: He has numbered each article which the photograph contains, there being four articles: low shoes, a pair of rubber-soled shoes, one sneaker, rubber-soled shoe--and a pair of socks.

Number 1 is:

"Shoes worn by myself."

Number 2 is a sneaker or tennis shoe, and on the picture it states:

"One of shoes, which I believe worn by Quirin."

o11 Number 3 is a pair of tennis shoes or gymnasium shoes, and it states on here:

"Shoes worn by Henry."

Number 4 is a pair of socks, and it says:

"Socks worn by myself.

"June 13, 1942, E. P. Burger."

F is a picture of the cap, and the description states:

"Photograph of cap worn by Burger at landing June 13, 1942, Amagancette, L.I. E. P. Burger."

E is a group photograph of the sea sack, raincoat, and shoes worn by Burger, socks worn by Burger, one of shoes of Quirin, shoes of Henry; and in addition the photograph says:

"The articles of this photograph are identified by me, as beeing those left by me on beach at Amagancette. June 13, 1942. E. P. Burger."

On photograph D the description states:

"Photograph of coat I wore when landing at Amagancette, L.I., June 13, 1942.

"Identified by belt and buttons. This was the only coat worn by any of the group which had a belt. E. P. Burger."

The President. Mr. Attorney General, it is now after five o'clock. If there is nothing of pressing importance, the Commission will stand adjourned.

Colonel Royall. May I address the Commission?

The President. Yes, sir.

Colonel Royall. I assume that there could be no question about it, but I should like it to appear clearly in the record that there is objection by all the other defendants to this testimony so far as it may affect them--that is, the testimony

b12 of Burger's statements and declarations. That was put in before we started.

The President. Yes, that will be entered in the record.

Colonel Royall. There is no objection on the part of Burger to this testimony.

The President. The Commission is adjourned until ten o'clock tomorrow morning.

Will you, Mr. Attorney General, and the Judge Advocate General be conscious of the prior engagement at nine-thirty?

The Attorney General. Yes. We will be here at nine-thirty.

(At 5:05 o'clock p. m. an adjournment was taken until Friday, July 10, at 10 o'clock a.m.)

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Rew-c

C O N T E N T S .

Thursday, July 9, 1942.

Name of Witness	Direct	Cross	Redirect	Recross
Warren Barnes	153			
Lieutenant Sydney K. Franken	158			
Recalled	181	182		
	193	195		
Charles F. Lanman	167			
Recalled	175	176		
Recalled	238			
Recalled	269			
Spencer J. Drayton	170			
Gerheard P. Hundt	196	200	203	
D. J. Parsons	202	236	242	
B. Downey Rice	247	265	267	

EXHIBITS

Prosecution		For Identification	In Evidence
13-A	Letter 4/11/42 District Coast Guard Officer, Third Naval District to Officers in Charge, all stations, Third Naval District		149,152
13-B	Message by Joseph A. Bresnan, Lieutenant Commander, United States Coast Guard, in re "beach patrol"		150,152
13-C	Letter, 6/13/42, District Coast Guard Officer, Third Naval District to Commanding Officers All Life Guard Stations, Third Naval District		150,152
13-D	Map, United States Coast Guard Lookout Stations		152
35	Article out of duffel bag	154	157
36	Coat	155	157
37	Coat	155	157
38	Coat	155	157
39	Pair of trousers	155	157
40	Brown vest	155	157
41	Pair of wool socks	155	157
42	Swimming shorts	156	157
43	Pair of sneakers	156	157
44	Card in German	165	165,197
45	Slip of paper in German	166	166
46	Blue handkerchief	171	193
47	Yellow handkerchief	171	193
48	Pills and piece of paper	171	193
49	Wool	171	193
50	Matches and broken shoelace	171	193